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TITLE 3—THE PRESIDENT

PROCLAMATION 3180

NATIONAL MARITIME DAY, 1957

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA
A PROCLAMATION

WHEREAS a strong and effective American Merchant Marine is essential to the economy and security of our Nation; and

WHEREAS the American Merchant Marine is carrying out its historic mission of linking the United States of America through trade and travel with friendly nations across the seas; and

WHEREAS American merchant ships and American seamen are ready at all times to serve our Nation in the cause of freedom and justice; and

WHEREAS the Congress, by a joint resolution approved May 20, 1933 (48 Stat. 73), designated May 22 as National Maritime Day, thus honoring our Merchant Marine by commemorating the departure from Savannah, Georgia, on May 22, 1819, of the *Savannah* on the first transoceanic voyage by any steamship, and requested the President to issue a proclamation annually calling for the observance of that day:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby urge the people of the United States to honor our Merchant Marine on Wednesday, May 22, 1957, by displaying the flag of the United States at their homes or other suitable places; and I direct the appropriate officials of the Government to arrange for the display of the flag on all Government buildings on that day. I also request that all ships sailing under the American flag dress ship on the twenty-second day of May in tribute to the American Merchant Marine.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 22nd day of April in the year of our Lord nineteen hundred and fifty [SEAL] seven, and of the Independence of the United States of America the one hundred and eighty-first.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 57-3451; Filed, Apr. 24, 1957;
4:51 p. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 98]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.398 *Valencia Orange Regulation* 98—(a) *Findings*. (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922; 21 F. R. 4392), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when

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The following Supplements are now available:

Title 16 (\$1.50)
Titles 28 and 29 (\$1.50)
Titles 30 and 31 (\$1.50)

Previously announced: Title 3, 1956 Supp. (\$0.40); Titles 4 and 5 (\$1.00); Title 7, Parts 1-209 (\$1.75), Parts 900-959 (\$0.50), Part 960 to end (\$1.25); Title 8 (\$0.55); Title 9 (\$0.70); Titles 10-13 (\$1.00); Title 17 (\$0.60); Title 18 (\$0.50); Title 20 (\$1.00); Title 21 (\$0.50); Titles 22 and 23 (\$1.00); Title 24 (\$1.00); Title 26, Parts 1-79 (\$0.35), Parts 80-169 (\$0.50), Parts 170-182 (\$0.35), Parts 183-299 (\$0.30), Part 300 to end, Ch. I, and Title 27 (\$1.00); Title 32, Parts 700-799 (\$0.50), Part 1100 to end (\$0.50); Title 39 (\$0.50); Title 49, Parts 1-70 (\$0.65), Parts 91-164 (\$0.60), Part 165 to end (\$0.70)

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information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on April 18, 1957, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., April 28, 1957, and ending at 12:01 a. m., P. s. t., February 2, 1958, no handler shall handle any Valencia oranges, grown in District 2, which are of a size smaller than 2.25 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the oranges contained in any type of container may measure smaller than 2.25 inches in diameter.

(2) As used in this section, "handler," "handler," and "District 2" shall have the same meaning as when used in said marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: April 22, 1957.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 57-3378; Filed, Apr. 25, 1957;
8:48 a. m.]

[Grapefruit Reg. 115]

PART 955—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF SAN GORGONIO PASS

LIMITATION OF SHIPMENTS

§ 955.376 *Grapefruit Regulation 115—*
(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 55, as amended (7 CFR Part

955), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than April 28, 1957. Shipments of grapefruit, grown as aforesaid, have been subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, since October 21, 1956, and will so continue until April 28, 1957; the recommendation and supporting information for continued regulation subsequent to April 27, 1957, were promptly submitted to the Department after such recommendation was made by the Administrative Committee on April 18, 1957; the provisions of this section, including the effective time thereof, are identical with the aforesaid recommendation of the committee and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., April 28, 1957, and ending at 12:01 a. m., P. s. t., August 31, 1957, no handler shall ship:

(i) Any grapefruit of any variety grown in the State of Arizona; in Imperial County, California; or in that part of Riverside County, California, situated south and east of the San Gorgonio Pass unless such grapefruit grade at least U. S. No. 2; or

(ii) From the State of California or the State of Arizona (a) to any point outside thereof in the United States, any grapefruit, grown as aforesaid, which are of a size smaller than $3\frac{1}{16}$ inches in

diameter, or (b) to any point in Canada, any grapefruit, grown as aforesaid, which are of a size smaller than $3\frac{1}{16}$ inches in diameter ("diameter" in each case to be measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit), except that a tolerance of 5 percent, by count, of grapefruit smaller than the foregoing minimum sizes shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerance, specified in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925 to 51.955 of this title: *Provided*, That, in determining the percentage of grapefruit in any lot which are smaller than $3\frac{1}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $3\frac{1}{16}$ inches in diameter and smaller; and in determining the percentage of grapefruit in any lot which are smaller than $3\frac{1}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $3\frac{1}{16}$ inches in diameter and smaller.

(2) As used herein, "handler," "variety," "grapefruit," and "ship" shall have the same meaning as when used in said amended marketing agreement and order; and the term "U. S. No. 2" shall have the same meaning as when used in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925 to 51.955 of this title.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: April 23, 1957.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 57-3396; Filed, Apr. 25, 1957;
8:51 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter A—Procedures, Rules of Practice, and Orders

[Docket 5802]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

ABBEY BRUSH CORP. ET AL.

Subpart—Misbranding or mislabeling:
§ 13.1185 *Composition.* Subpart—*Using misleading name—Goods:* § 13.2280 *Composition.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Abbey Brush Corporation (New York, N. Y.) et al., Docket 5802, Apr. 8, 1957]

In the Matter of Abbey Brush Corporation, a Corporation, and Henry Greenberg, Max Gartner, and Joseph Sheldon, Individually and as Officers of Abbey Brush Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer of paint brushes in New York City with stamping the handles of brushes which contained various quantities of horsehair

with the words "Pure Bristle", thereby representing falsely that the material composing the brushes consisted entirely of the much higher priced genuine bristle of swine.

After hearings in due course, he filed an initial decision dismissing the complaint, from which the attorney in support of the complaint noted an appeal. While the appeal was pending, petitions for leave to intervene, filed by three brush manufacturers' associations, were granted and briefs were filed by all three.

Before decision was rendered on the pending appeal, counsel in support of the complaint moved for its withdrawal and for remand of the entire matter for the purpose of receiving additional testimony. The Commission thereupon issued its order granting the motion to withdraw the appeal; vacated and set aside the initial decision; appointed a substitute hearing examiner, since the examiner rendering the initial decision had retired; remanded the matter to the hearing examiner for additional testimony; and directed that, after receipt thereof, the hearing examiner render an initial decision on the entire case.

At first demanding a trial de novo, respondents later entered into a formal stipulation with all parties, abandoning their position and agreeing that the entire record before the original hearing examiner and subsequent to the remand should constitute the basis for the later examiner's findings and conclusion.

On this basis, the hearing examiner made his initial decision and order to cease and desist, from which respondents appealed. The Commission denying the appeal, on January 8 substituted a modified order and adopted the initial decision as thus modified as the decision of the Commission.

The modified order to cease and desist is as follows:

It is ordered, That the respondents, Abbey Brush Corporation, a corporation, and Henry Greenberg, Max Gartner and Joseph Sheldon, individually and as officers of Abbey Brush Corporation, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' paint brushes do forthwith cease and desist from:

1. Using the words "Pure Bristle" or "bristle," or any other word or term of similar import or meaning, either alone or in connection with other words, to designate, describe or refer to any product which is not composed wholly of bristle of the hog or swine: *Provided, however*, That in the case of a product composed in part of bristle and in part of horsehair or other fibres, the word bristle may be used as descriptive of such fiber content if there are used in immediate conjunction therewith, in letters of equal conspicuousness, words truthfully describing, in the order of their predominance, all constituent materials.

2. Representing in any manner that any of respondents' brushes contain bristle in greater quantity than is actually the case.

By "Final Order", report of compliance was required as follows:

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

It is further ordered, That the initial decision of the substitute hearing examiner, as modified herein, is hereby adopted as the decision of the Commission.

Issued: April 8, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-3385; Filed, Apr. 25, 1957;
8:49 a. m.]

[Docket 6665]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

PROPPER MANUFACTURING CO., INC., ET AL.

Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Foreign origin;¹ § 13.1900 *Source or origin:* Foreign product as domestic.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Propper Manufacturing Co., Inc., et al., Long Island City, N. Y., Docket 6665, Apr. 13, 1957]

In the Matter of Propper Manufacturing Company, Inc., a Corporation, and Seymour Schuman and Beatrice Schuman, Individually and as Officers of Propper Manufacturing Company, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging an importer in Long Island City, N. Y., of unmarked parts of hypodermic syringes, with offering the completed hypodermic syringes assembled therefrom for sale to the purchasing public without disclosing by markings on the syringes themselves or in any other way that the barrels and plungers were imported from Japan.

Following entry of an agreement between the parties containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on April 13 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the Respondents Propper Manufacturing Company, Inc., a corporation, and its officers, and Seymour Schuman, individually and as an officer of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hypodermic syringes, or similar products, which are composed in substantial part of imported materials, in commerce, as "commerce" is defined in the Federal Trade

¹ New.

Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing said products made in whole or in substantial, material and essential part in Japan without clearly disclosing such Japanese origin on said products in such manner that it cannot readily be hidden or obliterated.

It is further ordered, That the complaint herein, insofar as it relates to Beatrice Schuman, individually or as an officer of Propper Manufacturing Company, Inc., be, and the same hereby is, dismissed.

By "Decision of the Commission," etc., report of compliance was required as follows:

It is ordered, That respondents Propper Manufacturing Company, Inc., a corporation, and its officers, and Seymour Schuman, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: April 12, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-3372; Filed, Apr. 25, 1957;
8:46 a. m.]

Subchapter B—Trade Practice Conference Rules

[File No. 21-267]

PART 117—SCHOOL SUPPLY AND EQUIPMENT INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference procedure in pursuance of the act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of April 26, 1957.

Statement by the Commission. Trade practice rules for the school supply and equipment industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision and extension of, and supersede, the trade practice rules for the school supplies and equipment distributing industry as published by the Commission on November 12, 1936 (Part 117).

The industry for which these rules are established is composed of persons, firms, corporations, and organizations engaged in the manufacture, sale, or distribution of equipment and supplies for schools, colleges, universities, and other educational institutions or organizations. Such equipment and supplies include, but are not limited to, pencils, paper, crayons,

chalk, chalkboards, book covers, desks, chairs, addressing and duplicating machines, flags and banners, maps, laboratory and vocational equipment and supplies, building maintenance and sanitary equipment and supplies, and outdoor and indoor playground equipment. Text books are not included.

The rules are directed to the prevention and elimination of various unfair trade practices deemed to be violative of laws administered by the Commission. They are to be applied to such end and to the exclusion of any acts or practices which suppress competition or otherwise restrain trade.

Proceedings leading to the establishment of these rules were instituted upon application of the National School Service Institute, during the course of which proposed rules for the industry were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments respecting the rules as they desired to offer and to be heard in the premises. Pursuant to such notice, a public hearing was held in Washington, D. C., on September 26, 1956, and all matters there presented, or otherwise received in the proceedings, were duly considered by the Commission.

Following such hearing, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved the rules as hereinafter set forth.

Such rules become operative thirty (30) days from the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

General statement. The unfair trade practices embraced in the rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Sec.

117.0 Definitions; the industry and its products.

GROUP I

- 117.1 Misrepresentation and misbranding in general.
- 117.2 Misrepresentation as to character of business.
- 117.3 Misrepresenting products as conforming to standard or specification.

Sec.

- 117.4 Deceptive pricing.
- 117.5 Guarantees, warranties, etc.
- 117.6 Substitution of products.
- 117.7 Deceptive use of trade or corporate names, trade-marks, etc.
- 117.8 Passing off through imitation or simulation of trade-marks, trade names, etc.
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- 117.20 Consignment distribution.
- 117.21 Use of the word "free."
- 117.22 Prohibited discrimination.
- 117.23 Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 117.0 to 117.23 issued under sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

§ 117.0 Definitions; The industry and its products. (a) Products of this industry consist of equipment and supplies for schools, colleges, universities, and other educational institutions or organizations. Such products include, but are not limited to, pencils, paper, crayons, chalk, chalkboards, book covers, desks, chairs, addressing and duplicating machines, flags and banners, maps, laboratory and vocational equipment and supplies, building maintenance and sanitary equipment and supplies, and outdoor and indoor playground equipment. Text books are not included.

(b) Members of the industry are persons, firms, corporations, and organizations engaged in the manufacture, sale, or distribution of such equipment and supplies.

GROUP I.

§ 117.1 Misrepresentation and misbranding in general. It is an unfair trade practice to make or publish, or cause to be made or published, by way of advertising, labeling or otherwise, any statement or representation which, directly or by implication, has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning the grade, quality, quantity, weight, use, size, material, ingredients, finish, character, origin, nature, design, condition, performance, durability, resistance to water or weather, manufacture, distribution, availability, or delivery dates, of any industry products, or in any other material respect. [Rule 1]

§ 117.2 Misrepresentation as to character of business. It is an unfair trade practice for any member of the industry to represent, directly or by implication, in his advertising or otherwise, that he is a producer or manufacturer of products of the industry, or that he owns or

controls a factory making such products, when such is not the fact, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 2]

§ 117.3 Misrepresenting products as conforming to standard or specification. In the sale, offering for sale, or distribution of any industry products, it is an unfair trade practice:

(a) To falsely represent or imply that any industry product conforms to the requirements of any standard or specification, whether established or recognized by a department or unit of a city or state government, or of the Federal Government, by trade practice, or otherwise; or

(b) To claim or imply that any industry product conforms to any standard or specification which is inapplicable or which has been rescinded, revised, superseded, or amended, and thereby mislead or deceive purchasers or prospective purchasers; or

(c) To represent or imply that any industry product conforms to the requirements of any standard or specification without clearly disclosing the identity of the standard or specification to which reference is made. Such disclosure shall be by reference to the standard or specification on all labels, invoices, sales literature, and other advertising containing such representation or implication. [Rule 3]

§ 117.4 Deceptive pricing. (a) It is an unfair trade practice for any member of the industry to represent, in advertising or otherwise, that the price of any industry product has been reduced from what is in fact a fictitious price, or that such price is a reduced or a special price when it is in fact the regular selling price of such product, or that the regular price thereof is higher when such is not the fact, or otherwise to falsely or deceptively represent the past or current price of an industry product.

(b) It is an unfair trade practice for any member of the industry, directly or indirectly, to use or to supply to dealers, or to aid or assist in the use of, price tags, labels, or similar devices which are false or fictitious, or which such member has reason to believe are intended to be used or will be used by dealers or salesmen for the purpose of misleading or deceiving the purchasing or consuming public in regard to price, or in any other material respect. [Rule 4]

§ 117.5 Guarantees, warranties, etc. In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member:

(a) To represent, directly or by implication, that any industry product is guaranteed or warranted unless the nature and extent of the guarantee or warranty, and the manner in which the guarantor or warrantor will perform thereunder, are clearly and conspicuously disclosed; or

(b) To use, or cause to be used, any guarantee or warranty which does not clearly and conspicuously disclose the terms, conditions, and limitations of such guarantee or warranty and the obligations of the guarantor or warrantor thereunder; and

(c) To represent or imply that an industry product is guaranteed or warranted, or to use any guarantee or warranty covering an industry product, when the guarantor or warrantor fails or refuses to observe his obligations thereunder. [Rule 5]

§ 117.6 *Substitution of products.* It is an unfair trade practice for a member of the industry to make an unauthorized substitution of products, where such substitution has the capacity and tendency or effect of misleading or deceiving purchasers, by:

(a) Shipping or delivering industry products which do not conform to samples submitted, to specifications (in bids or otherwise) upon which the sale is consummated, or to representations made prior to securing the order, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery; or

(b) Falsely representing the reason for making a substitution.

NOTE: Nothing in this section shall be construed as preventing the application of such tolerances as are agreed upon between buyer and seller or are otherwise deemed reasonable and proper and where no misrepresentation or deception of purchasers is practiced or promoted in relation to the product or its deviation from samples or specifications.

[Rule 6]

§ 117.7 *Deceptive use of trade or corporate names, trade-marks, etc.* It is an unfair trade practice for any member of the industry to use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect. [Rule 7]

§ 117.8 *Passing off through imitation or simulation of trade-marks, trade names, etc.* It is an unfair trade practice for any member of the industry to mislead or deceive purchasers by passing off the products of one industry member as and for those of another through the imitation or simulation of trade-marks, trade names, brands, or labels. [Rule 8]

§ 117.9 *Deceptive invoicing.* Withholding from or inserting in invoices or sales tickets any statements or information by reason of which omission or insertion an inaccurate or incomplete record is made, wholly or in part, of the transactions represented on the face of such invoices or sales tickets, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice. [Rule 9]

§ 117.10 *Defamation of competitors or interfering with or disparaging their products.* It is an unfair trade practice for any industry member:

(a) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, question-

able credit standing, or by other false representations; or

(b) To falsely disparage competitors' products as to grade, quality, or method of manufacture and distribution, or in any other respect; or

(c) To falsely disparage the business methods, selling prices, values, credit terms, policies, services, or conditions of employment, of competitors; or

(d) To demonstrate obsolete models of a competitor's product as and for current models, or deliberately to tamper with, damage, or destroy competitors' products so as to disparage the products in the eyes of customers or prospective customers.

NOTE: Nothing in this section shall be construed as preventing the full, fair, and non-deceptive comparison, by demonstration or otherwise, of competitors' products with the products of another industry member before public officials or other purchasers or prospective purchasers.

[Rule 10]

§ 117.11 *Inducing breach of contract.*

(a) Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers, or interfering with or obstructing the performance of any such contractual duties or services, under any circumstance having the capacity and tendency or effect of substantially injuring or lessening present or potential competition, is an unfair trade practice.

(b) Nothing in this section is intended to imply that it is improper for an industry member to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from the customers of either of them, or from customers of any other industry member. [Rule 11]

§ 117.12 *Enticing away employees of competitors.* It is an unfair trade practice for any member of the industry willfully to entice away employees or sales representatives of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition: *Provided*, That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of competitors in good faith and not for the purpose of injuring, destroying, or preventing competition. [Rule 12]

§ 117.13 *Commercial bribery.* It is an unfair trade practice for a member of the industry to give, or offer to give, or permit or cause to be given, directly or indirectly, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to

purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

NOTE: The above section will be construed to embrace both direct and indirect bribery of elected or appointed public officials and employees or agents of municipal, county, parish, or state governments, or of the Federal Government, or of any branch or division thereof, by any industry member in connection with the sale or offering for sale of industry products, but it cannot and does not limit the application of any other pertinent Federal or State law.

[Rule 13]

§ 117.14 *Procurement of competitors' confidential information.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure competition or unreasonably restrain trade. [Rule 14]

§ 117.15 *Tie-in sales; coercing purchase of one product as a prerequisite to the purchase of other products.* The practice of coercing the purchase of one or more products of the industry as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 15]

§ 117.16 *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents, trade-marks, or copyrights among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of thereby harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 16]

§ 117.17 *Prohibited sales below cost.* (a) The practice of selling products of the industry at a price less than the cost thereof to the seller, with the purpose or intent, and where the effect is, or where there is a reasonable probability that the effect will be, to substantially injure, suppress, or stifle competition or tend to create a monopoly, is an unfair trade practice.

(b) This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued with the wrongful intent or purpose referred to and where the effect is, or where there is reasonable probability that the effect will be, to substantially injure, suppress, or stifle competition or to create a monopoly. Among the situations in which the requisite purpose or intent would ordinarily be lacking are cases in which such sales were: (1) Of seasonal goods near the conclusion of the season;

(2) of perishable goods in respect to which deterioration is imminent; (3) of obsolescent goods; (4) made under judicial process; or (5) made in bona fide discontinuance of business in the goods concerned.

(c) As used in this section, the term "cost" means the respective seller's cost and not an average cost in the industry whether such average cost be determined by an industry cost survey or some other method. It consists of the total outlay or expenditure by the seller in the acquisition, production, and distribution of the products involved, and comprises all elements of cost such as labor, material, depreciation, taxes (except taxes on net income and such other taxes as are not properly applicable to cost), and general overhead expenses, incurred by the seller in the acquisition, manufacture, processing, preparation for marketing, sale, and delivery of the products. Not to be included are dividends or interest on borrowed or invested capital, or nonoperating losses, such as fire losses and losses from the sale or exchange of capital assets. Operating cost should not be reduced by items of nonoperating income, such as income from investments, and gain on the sale of capital assets.

(d) Nothing in this section shall be construed as relieving an industry member from compliance with any of the requirements of the Robinson-Patman Act. [Rule 17]

§ 117.18 *Exclusive deals.* It is an unfair trade practice for any member of the industry to sell or contract for the sale of any industry products, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in new, used, or rebuilt products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or such condition, agreement, or understanding, may be to substantially lessen competition or tend to create a monopoly in any line of commerce. [Rule 18]

§ 117.19 *Prohibited forms of trade restraints (unlawful price fixing, etc.)* ¹ It is an unfair trade practice for any mem-

ber of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 19]

§ 117.20 *Consignment distribution.* (a) It is an unfair trade practice for any member of the industry to employ the practice of shipping industry products on consignment or pretended consignment for the purpose and with the effect of artificially clogging or closing trade outlets and unduly restricting competitors' use of said trade outlets in getting either products to consumers through regular channels of distribution, thereby injuring, destroying, or preventing competition, or tending to create a monopoly or unreasonably to restrain trade.

(b) Nothing in this section shall be construed as restricting or preventing consignment shipping or marketing of industry products in good faith where suppression of competition, restraint of trade, or undue interference with competitors' use of the usual channels of distribution, is not effected; nor shall anything in this section be construed to authorize any agreement, understanding, or planned common course of action by and between industry members mutually to conform or restrict their practice of shipping goods on consignment with the intent or effect of lessening competition. [Rule 20]

§ 117.21 *Use of the word "free."* In connection with the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to use the word "free," or any other word or words of similar import, in advertisements or in other offers to the public, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and, regardless of such disclosure:

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity or size thereof.

sale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

NOTE: The disclosure required by paragraph (a) of this section shall appear in close conjunction with the word "free" (or other word or words of similar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free," will not be regarded as compliance.

[Rule 21]

§ 117.22 *Prohibited discrimination* ²— (a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, actual or imminent deterioration of perishable goods, distress sales under court process, or sales in good faith in

¹ The inhibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such re-

² As used in this section, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor, or the services or facilities furnished by a competitor (see paragraph (d) of this section).

NOTE: Cost justification under subparagraph (2) of this paragraph depends upon net savings in cost based on all facts relevant to the transactions under the terms of such subsection. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

In complaint proceedings, justification of price differentials under subparagraphs (2), (4) and (5) of this paragraph is a matter of affirmative defense to be established by the person or concern charged with price discrimination.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair

trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

NOTE: This paragraph is a re-statement of section 2 (f) of the Clayton Act as amended. In a complaint proceeding under this section, in order to make out a prima facie violation, the Commission must show that the favored buyer induced or received the lower price knowing, or knowing facts from which he should have known, that such price was violative of section 2 (a) of said act and not justified under subparagraph (2), (4) or (5) of paragraph (a) of this section. When, in any such proceedings, the issue is limited to the question of whether the price differential involved made only due allowance for differences in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the goods were sold and delivered, the Commission may establish a prima facie case in a number of ways, including:

(1) By showing that the buyer paying the lower price knew that the methods by, and quantities in, which the goods were sold and delivered to him by the seller were the same as in the case of the competing buyer or buyers paying the higher price or prices; or

(2) By showing, when there is a difference in the methods or quantities in which the goods were sold and delivered by the seller to the buyer than in the case of the competing buyer or buyers paying the higher price or prices, that the buyer paying the lower price or prices knew the nature and extent of such differences and knew or should have known that they could not have resulted in sufficient cost savings of the kind and character specified as to justify the price differential.

(f) *Exemptions.* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. [Rule 22]

§ 117.23 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in the foregoing sections of this part. [Rule 23]

Promulgated by the Federal Trade Commission April 26, 1957.

Issued: April 23, 1957.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-3340; Filed, Apr. 25, 1957; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6231]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

DEDUCTIONS FOR PERSONAL EXEMPTIONS

On July 21, 1955, notice of proposed rule making regarding the regulations

for taxable years beginning after December 31, 1953, and ending after August 16, 1954, under Part V of subchapter B of chapter 1 (sections 151 to 154, inclusive) of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (20 F. R. 5234). After consideration of all such relevant matter as was presented by interested parties regarding the rules proposed, the following regulations, which also give effect to the amendment made to section 152 by section 2 of Public Law 333 (84th Congress), approved August 9, 1955, are hereby adopted:

- Sec.
- 1.151 Statutory provisions; allowance of deductions for personal exemptions.
- 1.151-1 Deductions for personal exemptions.
- 1.151-2 Additional exemptions for dependents.
- 1.151-3 Definitions.
- 1.152 Statutory provisions; dependent defined.
- 1.152-1 General definition of a dependent.
- 1.152-2 Rules relating to general definition of dependent.
- 1.152-3 Multiple support agreements.
- 1.153 Statutory provisions; determination of marital status.
- 1.153-1 Determination of marital status.
- 1.154 Statutory provisions; cross references.

AUTHORITY: §§ 1.151 to 1.154 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 1.151 *Statutory provisions; allowances of deductions for personal exemptions.*

SEC. 151. *Allowance of deductions for personal exemptions—(a) Allowance of deductions.* In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(b) *Taxpayer and spouse.* An exemption of \$600 for the taxpayer; and an additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) *Additional exemption for taxpayer or spouse aged 65 or more—(1) For taxpayer.* An additional exemption of \$600 for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(2) *For spouse.* An additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(d) *Additional exemption for blindness of taxpayer or spouse—(1) For taxpayer.* An additional exemption of \$600 for the taxpayer if he is blind at the close of his taxable year.

(2) *For spouse.* An additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(3) *Blindness defined.* For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed

20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(e) *Additional exemption for dependents—*

(1) *In general.* An exemption of \$600 for each dependent (as defined in section 152)—

(A) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$600, or

(B) Who is a child of the taxpayer and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

(2) *Exemption denied in case of certain married dependents.* No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(3) *Child defined.* For purposes of paragraph (1) (B), the term "child" means an individual who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer.

(4) *Student and educational institution defined.* For purposes of paragraph (1) (B) (ii), the term "student" means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a State or political subdivision of a State.

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

§ 1.151-1 *Deductions for personal exemptions—*(a) *In general.* (1) In computing taxable income, an individual is allowed a deduction for the exemptions specified in section 151. Such exemptions are: (i) The exemptions for an individual taxpayer and spouse (the so-called personal exemptions); (ii) the additional exemptions for a taxpayer attaining the age of 65 years and spouse attaining the age of 65 years (the so-called old-age exemptions); (iii) the additional exemptions for a blind taxpayer and a blind spouse; and (iv) the exemptions for dependents of the taxpayer.

(2) A nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year and subject to tax under section 1 or 1201 (b) is allowed as deductions the exemptions specified in section 151, even though as to the United States such individual is a nonresident alien. See section 876 and the regulations thereunder, relating to alien residents of Puerto Rico.

(b) *Exemptions for individual taxpayer and spouse (so-called personal exemptions).* Section 151 (b) allows an exemption of \$600 for the taxpayer and an additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the de-

pendent of another taxpayer. Thus, a husband is not entitled to an exemption for his wife on his separate return for the taxable year beginning in a calendar year during which she has any gross income (though insufficient to require her to file a return). Since, in the case of a joint return, there are two taxpayers (although under section 6013 there is only one income for the two taxpayers on such return, i. e., their aggregate income), two exemptions of \$600 are allowed on such return, one for each taxpayer spouse. If in any case a joint return is made by the taxpayer and his spouse, no other person is allowed an exemption for such spouse even though such other person would have been entitled to claim an exemption for such spouse as a dependent if such joint return had not been made.

(c) *Exemptions for taxpayer attaining the age of 65 and spouse attaining the age of 65 (so-called old-age exemptions).* (1) Section 151 (c) provides an additional exemption of \$600 for the taxpayer if he has attained the age of 65 before the close of his taxable year. An additional exemption of \$600 is also allowed to the taxpayer for his spouse if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the taxable year of the taxpayer and, for the calendar year in which the taxable year of the taxpayer begins, the spouse has no gross income and is not the dependent of another taxpayer. If a husband and wife make a joint return, an old-age exemption of \$600 will be allowed as to each taxpayer spouse who has attained the age of 65 before the close of the taxable year for which the joint return is made. The exemptions under section 151 (c) are in addition to the exemptions for the taxpayer and spouse under section 151 (b).

(2) In determining the age of an individual for the purposes of the exemption for old age, the last day of the taxable year of the taxpayer is the controlling date. Thus, in the event of a separate return by a husband, no additional exemption for old age may be claimed for his spouse unless such spouse has attained the age of 65 on or before the close of the taxable year of the husband. In no event shall the additional exemption for old age be allowed with respect to a spouse who dies before attaining the age of 65 even though such spouse would have attained the age of 65 before the close of the taxable year of the taxpayer. For the purposes of the old-age exemption, an individual attains the age of 65 on the first moment of the day preceding his sixty-fifth birthday. Accordingly, an individual whose sixty-fifth birthday falls on January 1 in a given year attains the age of 65 on the last day of the calendar year immediately preceding.

(d) *Exemptions for the blind.* (1) Section 151 (d) provides an additional exemption of \$600 for the taxpayer if he is blind at the close of his taxable year. An additional exemption is also allowed to the taxpayer for his spouse if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income

and is not the dependent of another taxpayer. The determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death.

(2) The exemptions for the blind are in addition to the exemptions for the taxpayer and spouse under section 151 (b) and are also in addition to the exemptions under section 151 (c) for taxpayers and spouses attaining the age of 65 years. Thus, a single individual who has attained the age of 65 before the close of his taxable year and who is blind at the close of his taxable year is entitled, in addition to the so-called personal exemption of \$600, to two further exemptions, each of \$600, one by reason of his age and the other by reason of his blindness. If a husband and wife make a joint return, an exemption of \$600 for the blind will be allowed as to each taxpayer spouse who is blind at the close of the taxable year for which the joint return is made.

(3) A taxpayer claiming an exemption allowed by section 151 (d) for a blind taxpayer and a blind spouse shall, if the individual for whom the exemption is claimed is not totally blind as of the last day of the taxable year of the taxpayer (or in the case of a spouse who dies during such taxable year as of the time of such death), attach to his return a certificate from a physician skilled in the diseases of the eye or a registered optometrist stating that as of the applicable status determination date in the opinion of such physician or optometrist (i) the central visual acuity of the individual for whom the exemption is claimed did not exceed 20/200 in the better eye with correcting lenses or (ii) such individual's visual acuity was accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. If such individual is totally blind as of the status determination date there shall be attached to the return a statement by the person or persons making the return setting forth such fact.

§ 1.151-2 *Additional exemptions for dependents.* (a) Section 151 (e) allows to a taxpayer an exemption of \$600 for each dependent (as defined in section 152) whose gross income (as defined in section 61) for the calendar year in which the taxable year of the taxpayer begins is less than \$600, or who is a child of the taxpayer and who:

(1) Has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

(2) Is a student, as defined in § 1.151-3 (b).

No exemption shall be allowed under section 151 (e) for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(b) The only exemption allowed for a dependent of the taxpayer is that provided by section 151 (e). The exemptions

provided by section 151 (c) (old-age exemptions) and section 151 (d) (exemptions for the blind) are allowed only for the taxpayer or his spouse. For example, where a taxpayer provides the entire support for his father who meets all the requirements of a dependent, he is entitled to only one exemption of \$600 for his father (section 151 (e)), even though his father is over the age of 65.

§ 1.151-3 Definitions.—(a) *Child.* For purposes of sections 151 (e), 152, and the regulations thereunder, the term "child" means a son, stepson, daughter, stepdaughter, adopted son, or adopted daughter of the taxpayer.

(b) *Student.* For purposes of section 151 (e) and section 152 (d), and the regulations thereunder, the term "student" means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins is a full-time student at an educational institution or is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a State or political subdivision of a State. An example of "institutional on-farm training" is that authorized by the Veterans' Readjustment Assistance Act of 1952, as described in section 252 of such act. A full-time student is one who is enrolled for some part of 5 calendar months for the number of hours or courses which is considered to be full-time attendance. The 5 calendar months need not be consecutive. School attendance exclusively at night does not constitute full-time attendance. However, full-time attendance at an educational institution may include some attendance at night in connection with full-time course of study.

(c) *Educational institution.* For purposes of sections 151 (e) and 152, and the regulations thereunder, the term "educational institution" means a school maintaining a regular faculty and established curriculum, and having an organized body of students in attendance. It includes primary and secondary schools, colleges, universities, normal schools, technical schools, mechanical schools, and similar institutions, but does not include noneducational institutions, on-the-job training, correspondence schools, night schools, and so forth.

§ 1.152 Statutory provisions; dependent defined.

SEC. 152. Dependent defined.—(a) *General definition.* For purposes of this subtitle, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) as received from the taxpayer):

- (1) A son or daughter of the taxpayer, or a descendant of either,
- (2) A stepson or stepdaughter of the taxpayer,
- (3) A brother, sister, stepbrother, or step-sister of the taxpayer,
- (4) The father or mother of the taxpayer, or an ancestor of either,
- (5) A stepfather or stepmother of the taxpayer,
- (6) A son or daughter of a brother or sister of the taxpayer,

(7) A brother or sister of the father or mother of the taxpayer,

(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

(9) An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or

(10) An individual who—

(A) Is a descendant of a brother or sister of the father or mother of the taxpayer,

(B) For the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

(C) Before receiving such institutional care, was a member of the same household as the taxpayer.

(b) *Rules relating to general definition.* For purposes of this section—

(1) The terms "brother" and "sister" include a brother or sister by the halfblood.

(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual shall be treated as a child of such individual by blood.

(3) The term "dependent" does not include any individual who is not a citizen of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. The preceding sentence shall not exclude from the definition of "dependent" any child of the taxpayer born to him, or legally adopted by him, in the Philippine Islands before July 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him.

(4) A payment to a wife which is includible in the gross income of the wife under section 71 or 682 shall not be treated as a payment by her husband for the support of any dependent.

(c) *Multiple support agreements.* For purposes of subsection (a), over half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

(1) No one person contributed over half of such support;

(2) Over half of such support was received from persons each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

(3) The taxpayer contributed over 10 percent of such support; and

(4) Each person described in paragraph (2) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary or his delegate may by regulations prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.

(d) *Special support test in case of students.* For purposes of subsection (a), in the case of any individual who is—

(1) A son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this section), and

(2) A student (within the meaning of section 151 (e) (4)),

amounts received as scholarships for study at an educational institution (as defined in section 151 (e) (4)) shall not be taken into account in determining whether such individual received more than half of his support from the taxpayer.

(Sec. 152 as amended by sec. 2, P. L. 333 (84th Cong.))

§ 1.152-1 General definition of a dependent. (a) (1) For purposes of the in-

come taxes imposed on individuals by the Internal Revenue Code of 1954, the term "dependent" means any individual described in paragraphs (1) through (10) of section 152 (a) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer.

(2) (i) For purposes of determining whether or not an individual received, for a given calendar year, over half of his support from the taxpayer, there shall be taken into account the amount of support received from the taxpayers as compared to the entire amount of support which the individual received from all sources, including support which the individual himself supplied. The term "support" includes food, shelter, clothing, medical and dental care, education, and the like. Generally, these items of support are measured in terms of the amount of expense incurred by the one furnishing such items. However, if the item of support furnished an individual (either by himself or others) is in the form of goods, services, or other benefits, it will be necessary to measure the amount of such item of support in terms of its fair market value.

(ii) In computing the amount which is contributed for the support of an individual, there must be included any amount which is contributed by such individual for his own support, including income which is ordinarily excludable from gross income, such as benefits received under the Social Security Act. For example, a father receives \$800 social security benefits, \$400 interest, and \$1,000 from his son during 1955, all of which sums represent his sole support during that year. The fact that the social security benefits of \$800 are not includible in the father's gross income does not prevent such amount from entering into the computation of the total amount contributed for the father's support. Consequently, since the son's contribution of \$1,000 was less than one-half of the father's support (\$2,200) he may not claim his father as a dependent.

(b) Section 152 (a) (9) applies to any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer) who lives with the taxpayer and is a member of the taxpayer's household during the entire taxable year of the taxpayer. An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. It is not necessary under section 152 (a) (9) that the dependent be related to the taxpayer. For example, foster children and children awaiting adoption may qualify as dependents. It is necessary, however, that the taxpayer both maintain and occupy the household. The taxpayer and dependent will be considered as occupying the household for such entire taxable year notwithstanding temporary absences from the household due to special circumstances. A non-permanent failure to occupy the common abode by reason of illness, education, or vacation shall be considered temporary

absence due to special circumstances. The fact that the dependent dies during the year shall not deprive the taxpayer of the deduction if the dependent lived in the household for the entire part of the year preceding his death. Likewise, the period during the taxable year preceding the birth of an individual shall not prevent such individual from qualifying as a dependent under section 152 (a) (9). Moreover, a child who actually becomes a member of the taxpayer's household during the taxable year shall not be prevented from being considered a member of such household for the entire taxable year, if the child is required to remain in a hospital for a period following its birth, and if such child would otherwise have been a member of the taxpayer's household during such period.

(c) In the case of a child of the taxpayer who is under 19 or who is a student, the taxpayer may claim the dependency exemption for such child provided he has furnished more than one-half of the support of such child for the calendar year in which the taxable year of the taxpayer begins, even though the income of the child for such calendar year may be \$600 or more. In such a case, there may be two exemptions claimed for the child: One on the parent's (or stepparent's) return, and one on the child's return. In determining whether the taxpayer does in fact furnish more than one-half of the support of an individual who is a child, as defined in paragraph (a) of § 1.151-3, of the taxpayer and who is a student, as defined in paragraph (b) of § 1.151-3, a special rule regarding scholarships applies. Amounts received as scholarships, as defined in paragraph (a) of § 1.117-3, for study at an educational institution shall not be considered in determining whether the taxpayer furnishes more than one-half the support of such individual. For example, A has a child who receives a \$1,000 scholarship to the X college for one year. A contributes \$500, which constitutes the balance of the child's support for that year. A may claim the child as a dependent, as the \$1,000 scholarship is not counted in determining the support of the child. For purposes of this paragraph, amounts received for tuition payments and allowances by a veteran under the provisions of the Servicemen's Readjustment Act of 1944 or the Veterans' Readjustment Assistance Act of 1952 are not amounts received as scholarships. See also § 1.117-4. For definition of the terms "child," "student," and "educational institution," as used in this paragraph, see § 1.151-3.

§ 1.152-2 *Rules relating to general definition of dependent.* (a) To qualify as a dependent an individual must be a citizen or resident of the United States or be a resident of the Canal Zone, the Republic of Panama, Canada, or Mexico at some time during the calendar year in which the taxable year of the taxpayer begins. A resident of the Republic of the Philippines who was born to or legally adopted by the taxpayer in the Philippine Islands before January 1, 1956, at a

time when the taxpayer was a member of the Armed Forces of the United States, may also be claimed as a dependent if such resident otherwise qualifies as a dependent. For definition of "Armed Forces of the United States," see section 7701 (a) (15).

(b) A payment to a wife which is includible in her gross income under section 71 or section 682 shall not be considered a payment by her husband for the support of any dependent.

(c) A legally adopted child of an individual shall be treated as a child of such individual by blood.

(d) In the case of a joint return it is not necessary that the prescribed relationship exist between the person claimed as a dependent and the spouse who furnishes the support; it is sufficient if the prescribed relationship exists with respect to either spouse. Thus, a husband and wife making a joint return may claim as a dependent a daughter of the wife's brother (wife's niece) even though the husband is the one who furnishes the chief support. The relationship of affinity once existing will not terminate by divorce or the death of a spouse. For example, a widower may continue to claim his deceased wife's father (his father-in-law) as a dependent provided he meets the other requirements of section 151.

§ 1.152-3 *Multiple support agreements.* (a) Section 152 (c) provides that a taxpayer shall be treated as having contributed over half of the support of an individual for the calendar year (in cases where two or more taxpayers contributed to the support of such individual) if:

(1) No one person contributed over half of the individual's support,

(2) Each member of the group which collectively contributed more than half of the support of the individual would have been entitled to the dependency exemption but for the fact that he did not contribute more than one half of such support,

(3) The member of the group claiming the dependency exemption contributed more than 10 percent of the individual's support, and

(4) Each other person in the group who contributed more than 10 percent of such support files a written declaration that he will not claim the dependency exemption for such individual for any taxable year beginning in such calendar year.

(b) Application of the rule contained in paragraph (a) of this section may be illustrated by the following examples:

Example (1). Brothers A, B, C, and D contributed the entire support of their mother in 1956 in the following percentages: A, 30 percent; B, 20 percent; C, 29 percent; and D, 21 percent. Any one of the brothers, except for the fact that he did not contribute more than half of her support, would have been entitled to claim his mother as a dependent. Consequently, any one of the brothers could claim a deduction for the exemption of the mother provided a written declaration (as provided in paragraph (c) of this section) from each of the other brothers is attached to his income tax return. Even though A and D together contributed

more than one-half the support of the mother, A, if he wished to claim his mother as a dependent, would be required to attach written declarations from B, C, and D to his income tax return, since each of those three contributed more than 10 percent of the support and, but for the support requirement, would have been entitled to claim the dependency exemption.

Example (2). E, an individual who resides with his son, received \$1,500 during the calendar year 1956, which constituted his entire support for that year. The source of the \$1,500 was as follows:

Source	Amount received	Percentage of total
Social Security	\$375	25
N, an unrelated neighbor	165	11
B, a brother	210	14
D, a daughter	150	10
S, a son	600	40
Total received by E	1,500	100

B, D, and S are persons each of whom, but for the fact that he did not contribute more than half of the \$1,500, could claim E as a dependent for a taxable year beginning in 1956. The three together contributed \$960, or 64 percent of the \$1,500, and, thus, each is a member of the group to be considered for the purpose of section 152 (c). B and S are the only members of such group who can meet all the requirements of section 152 (c) and either one could claim E as a dependent for his taxable year beginning in 1956 provided he attached to his income tax return a written declaration (as provided in paragraph (c) of this section) signed by the other, and furnished the other information required by the return with respect to all the contributions to E. Inasmuch as D did not contribute more than 10 percent of E's support, she is not entitled to claim E as a dependent for a taxable year beginning in 1956 nor is she required to file a written declaration with respect to her contributions to E. N contributed over 10 percent of the support of E in 1956 but, since he is an unrelated neighbor, he does not qualify as a member of the group for the purpose of the multiple support agreement under section 152 (c).

(c) The member of a group of contributors who claims the dependency deduction for an individual under the multiple support agreement provisions of section 152 (c) must attach to his income tax return for the year of the deduction a written declaration from each of the other persons who contributed more than 10 percent of the support of such individual and who, but for the failure to contribute more than half of the support of the individual, would have been entitled to claim the dependency exemption. The written declaration required by this paragraph may be made on Form 2120, which contains a statement of the fact of contribution and a waiver of the claim for dependency exemption. Any declaration made other than on Form 2120 shall conform to the substance of Form 2120. The taxpayer claiming the exemption should be prepared to furnish other information, when required, which will substantiate his right to claim such exemption. Such information may include a statement showing the names of all contributors (whether or not members of the group described in section 152 (c)) and the amount contributed by each to the support of the claimed dependent.

§ 1.153 Statutory provisions; determination of marital status.

SEC. 153. *Determination of marital status.* For purposes of this part—

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

§ 1.153-1 *Determination of marital status.* For the purpose of determining the right of an individual to claim an exemption for his spouse under section 151 (b), the determination of whether such individual is married shall be made as of the close of his taxable year, unless his spouse dies during such year, in which case the determination shall be made as of the time of such death. An individual legally separated from his spouse under decree of divorce or separate maintenance shall not be considered as married. The provisions of this section may be illustrated by the following examples:

Example (1). A, who files his returns on the basis of a calendar year, married B on December 31, 1956. B, who had never previously married, had no gross income for the calendar year 1956 nor was she the dependent of another taxpayer for such year. A may claim an exemption for B for 1956.

Example (2). C and his wife, D, were married in 1940. They remained married until July 1956 at which time D was granted a decree of divorce. C, who files his income tax returns on a calendar year basis, cannot claim an exemption for D on his 1956 return as C and D were not married on the last day of C's taxable year. Had D died instead of being divorced, C could have claimed an exemption for D for 1956 as their marital status would have been determined as of the date of D's death.

§ 1.154 Statutory provisions; cross references.

SEC. 154. *Cross references.* (1) For definitions of "husband" and "wife", as used in section 152 (b) (4), see section 7701 (a) (17).

(2) For deductions of estates and trusts, in lieu of the exemptions under section 151, see section 642 (b).

(3) For exemptions of nonresident aliens, see section 873 (d).

(4) For exemptions of citizens deriving income mainly from sources within possessions of the United States, see section 931 (e).

[SEAL] RUSSELL G. HARRINGTON,
Commissioner of Internal Revenue.

Approved: April 22, 1957.

DAN THROOP SMITH,
Deputy to the Secretary.

[F. R. Doc. 57-3381; Filed, Apr. 25, 1957;
8:48 a. m.]

[T. D. 6230]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

WAR LOSS RECOVERIES; MANNER OF ELECTION

The regulations prescribed under Part IV of subchapter Q of chapter 1 of the Internal Revenue Code of 1954 as Treasury Decision 6164 (21 F. R. 1640), ap-

proved March 8, 1956, relating to war loss recoveries, are amended as set forth below.

PARAGRAPH 1. Section 1.1335-1 (b) is amended to read as follows:

(b) *Manner of election.* In all cases the election to have the provisions of section 1333 apply must be made by the taxpayer not later than six months from the last day prescribed by law for the filing of his income tax return for any taxable year in which a recovery of war loss property has occurred. The election shall be evidenced by a written statement, made within such 6-month period, that the taxpayer elects to have the provisions of section 1333 apply to any taxable year in which any money or property is recovered in respect of war loss property. The statement may be made in (or attached to)—

(1) The return or amended return filed for such taxable year;

(2) A claim for refund or credit filed for such taxable year for an overpayment resulting from application of such provisions;

(3) A timely petition or amended petition to The Tax Court of the United States for a redetermination of any deficiency for any taxable year in which a recovery of war loss property occurred; or

(4) A letter addressed to the district director for the district in which the return for such taxable year was required to be filed.

If the written statement of election is made in a letter, it shall be signed by the taxpayer making the election if an individual or, if the taxpayer is not an individual, the letter must be executed in the same manner as required in the case of the income tax return of such taxpayer. The date of the making of the election shall be the date the return, amended return claim for refund or credit, or letter is filed in the office of the district director, or the date the petition or amended petition is filed with The Tax Court of the United States. In case the election is made in a return filed before the last day prescribed by law for the filing thereof (including any extension of time for such filing), such election shall not be considered made until such last day. See section 7502 and the regulations thereunder with respect to the timeliness of filing an election where filing is done by mail and section 7503 and the regulations thereunder with respect to the timeliness of filing where the last day for filing falls on a Saturday, Sunday, or legal holiday.

PAR. 2. The provisions of paragraph 1 of this Treasury decision shall be effective as of the date of filing by the Division of the Federal Register. However, an election made under section 1335 shall be timely if made within 60 days of the effective date of this Treasury decision by any taxpayer who can establish to the satisfaction of the district director that as a result of reliance in good faith upon the provisions of § 1.1335-1 (b), effective prior to the amendment effected by this Treasury decision, or corresponding provisions of regulations continued in effect by Treasury Decision 6091, an election

under section 1335 for a taxable year governed by the Internal Revenue Code of 1954 was postponed beyond the 6-month period provided by paragraph 1.

Because the amendment made by this Treasury decision clarifies the time within which and the manner in which the election for treating war loss recoveries is to be made, it is found unnecessary to issue this Treasury decision with notice of public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of that act.

(68A Stat. 917; 26 U. S. C. 7805)

[SEAL] RUSSELL G. HARRINGTON,
Commissioner of Internal Revenue.

Approved: April 22, 1957.

DAN THROOP SMITH,
Deputy to the Secretary.

[F. R. Doc. 57-3380; Filed, Apr. 25, 1957;
8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter C—Military Personnel

PART 56—MEDICAL CARE FOR DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments to this Part 56 have been authorized by the Secretary of Defense and the Surgeon General of the Public Health Service, who has been delegated the authority for this program by the Secretary of Health, Education and Welfare:

1. A new sentence has been added to § 56.1-3 (d) (6). Subparagraph (6) will read as follows:

§ 56.1-3 *Definition of terms used in this part.* * * *

(d) * * *

(6) A parent or parent-in-law, if the said parent or parent-in-law is, or was at the time of the member's or retired member's death, in fact dependent on said member or retired member for over one-half of his support and is, or was at the time of the member's or retired member's death, actually residing in the household of said member or retired member. For the purposes of this directive, the requirement of actually residing in the household shall be fulfilled when the parent or parent-in-law actually resides or was residing at the time of death of a member or retired member, in a dwelling place provided or maintained by said member or retired member; or

2. Due to an unavoidable delay in the delivery of the DD Form 1173, "Uniformed Services Identification and Privilege Care," the dates on the mandatory use of this form have been amended as follows:

a. Change the date "30 June 1957" to "31 December 1957" wherever it appears in §§ 56.2-1, 56.2-2 (c), 56.4-6 (c) and 56.5-5 (b).

b. Change the date "1 July 1957" to "1 January 1957" in § 56.4-6 (b).

c. Revise the first sentence of § 56.5-5 (a) to read as follows: "Prior to 1 January 1958, identification will be established by the best available means, including the DD Form 720, 'Dependent's Identification Card', or DD Forms 1173 which have been issued, and such other means of identification currently provided by the uniformed services."

(70 Stat. 250)

MAURICE W. ROCHE,
Administrative Secretary.

[F. R. Doc. 57-3366; Filed, Apr. 25, 1957;
8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

AUTHORITY FOR DISCIPLINARY ACTION

Section 17.66 (b) is amended to read as follows:

§ 17.66 *Authority for disciplinary action.* * * *

(b) Discharge for infraction of hospital discipline will carry the accompanying penalty of exclusion from rehospitalization, except in a medical emergency, and from domiciliation, for a prescribed period, with denial of Government transportation to cover return travel upon such discharge or to cover rehospitalization in a medical emergency, unless the offender executes affidavit of inability to defray the expenses of such travel.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 1, 6, 48 Stat. 9, 301, 53 Stat. 652, as amended; 38 U. S. C. 706, 706a)

This regulation is effective April 26, 1957.

[SEAL] H. V. HIGLEY,
Administrator of Veterans' Affairs.

[F. R. Doc. 57-3383; Filed, Apr. 25, 1957;
8:49 a. m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART C—WAR ORPHANS' EDUCATIONAL ASSISTANCE ACT OF 1956

DEFINITIONS

In § 21.3005, subparagraphs (8), (9), and (10) of paragraph (a) are amended to read as follows:

§ 21.3005 *Definitions.* (a) * * *

(8) The term "parent or guardian" means a father, a mother, a father through adoption, a mother through adoption, a fiduciary legally appointed by a court of competent jurisdiction, or any person who is determined by the Administrator in accordance with section 21 of the World War Veterans' Act, 1924 (Pub. Law 242, 68th Cong.), as amended (38 U. S. C., 450), to be otherwise legally vested with the care of the eligible person. (As used throughout the regulations for this law, the term

"parent or guardian" has reference to a legal custodian recognized pursuant to section 21 supra and § 13.207 of this chapter as the person legally vested with the care of the eligible person or his estate.)

(9) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. This may include specialized vocational courses for mentally or physically handicapped persons which are generally recognized as preparing such persons for the attainment of predetermined vocational objectives.

(10) The term "educational institution" means any public or private secondary school, vocational school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above. This term will include institutions which provide specialized vocational courses for the mentally or physically handicapped generally recognized as on the secondary school level or above.

(Sec. 501, 70 Stat. 419; 38 U. S. C. 1033)

This regulation is effective April 26, 1957.

[SEAL] H. V. HIGLEY,
Administrator of Veterans' Affairs.

[F. R. Doc. 57-3384; Filed, Apr. 25, 1957;
8:49 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter B—Bureau of the Public Debt

[1957 Dept. Circular 653, 4th Revision]

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

APRIL 22, 1957.

Department Circular No. 653, Third Revision, dated April 29, 1952, as amended (31 CFR Part 316), is hereby revised to read as follows:

Sec.

316.1 Offering of bonds.

316.2 Term.

316.3 Interest.

316.4 Applicability to bonds bearing issue dates of February 1 through April 1, 1957, as well as subsequent issue dates.

316.5 Bonds purchased before new stock is available.

316.6 Description.

316.7 Registration.

316.8 Limitation on holdings.

316.9 Nontransferability.

316.10 Issue prices of bonds.

316.11 Purchase of bonds.

316.12 Delivery of bonds.

316.13 Retention of bonds of Series E at further interest after maturity.

316.14 Taxation.

316.15 Lost, stolen, or destroyed bonds.

316.16 Payment or redemption (in general).

Sec.

316.17 Payment or redemption in the case of disability or death.

316.18 General provisions.

AUTHORITY: §§ 316.1 to 316.18 issued under sec. 22, 49 Stat. 21, as amended; 31 U. S. C. 757c.

§ 316.1 *Offering of bonds.* The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended (31 U. S. C. 757c), offers for sale to the people of the United States, United States Savings Bonds of Series E which hereinafter are generally referred to as bonds of Series E. These bonds will be substantially a continuation of the bonds of Series E heretofore available, except as otherwise indicated herein. This offering of bonds will continue until terminated by the Secretary of the Treasury.

§ 316.2 *Term.* A bond of Series E will be dated as of the first day of the month in which payment of the issue price is received by an agent authorized to issue the bonds. This date is the issue date and the bonds will mature and be payable at face value 8 years and 11 months from such issue date. The issue date is the basis for determining the redemption periods or the maturity date of the bond, and should not be confused with the date appearing in the issuing agent's stamp, which indicates the actual date the bond is inscribed. The bonds may not be called for redemption prior to maturity, but any bond may be redeemed prior to maturity, at any time after two months from the issue date, at the owner's option, at fixed redemption values.

§ 316.3 *Interest.* Bonds of Series E will be issued on a discount basis at 75 percent of their maturity value. No interest as such will be paid on the bonds, but they will increase in redemption value at the end of each half-year period from the issue date, as shown in Table A of this part. The investment yield will be approximately 3.25 percent per annum compounded semiannually, if the bonds are held to maturity, but the yield will be less if the owner exercises his option to redeem a bond prior to maturity.

§ 316.4 *Applicability to bonds bearing issue dates of February 1 through April 1, 1957, as well as subsequent issue dates.* The term of maturity and the yield provided for in §§ 316.2 and 316.3 shall apply to all bonds of Series E bearing issue dates of February 1 through April 1, 1957, as well as to those bearing subsequent issue dates.

§ 316.5 *Bonds purchased before new stock is available.* Until bonds have been printed and supplied to issuing agents bonds of Series E in the form on sale prior to February 1, 1957, will be issued for purchases made under this part. Bonds of Series E purchased in the interval until the new stocks are available will carry the new interest rate and redemption values and all other privileges as fully as if expressly set forth in the text of the bonds themselves. The owners, if they desire to do so, may exchange such bonds at any Federal Reserve Bank or Branch or at the Treasury Department, Washington 25, D. C., for

bonds in the new form (with the same registration and issue dates), when the latter become available; but they need not do so because all paying agents will redeem all bonds of Series E bearing issue dates on and after February 1, 1957, in accordance with the schedule of redemption values set forth in Table A of this part.

§ 316.6 *Description.* Bonds of Series E will be issued only in registered form. See § 316.7 for information concerning registration. They will be issued in denominations of \$25, \$50, \$100, \$200, \$500, \$1,000 and \$10,000; and \$100,000 which is provided for trustees of employees' savings plans. Each bond will bear the facsimile signature of the Secretary of the Treasury, and will bear an imprint of the Seal of the Treasury Department. At the time of issue, the issuing agent will inscribe on the face of each bond the name and address of the owner and the name of the coowner or beneficiary, if any; will enter the issue date of the bond; and will imprint the agent's dating stamp (to show the date the bond is actually inscribed). A bond of Series E shall be valid only if an authorized issuing agent receives payment therefor, duly inscribes, dates, and stamps the bond, and delivers it to the purchaser or his agent.

§ 316.7 *Registration—(a) General.* Generally, only residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Canal Zone and citizens of the United States temporarily residing abroad are eligible to invest in bonds of Series E. The bonds may be registered in the names of natural persons in their own right in the three conventional forms of registration, single ownership, coownership and beneficiary forms, heretofore available. The bonds may also be registered in the names and titles of the legal representatives of natural persons (guardians, custodians, conservators, etc.) and of the trustees of the limited classes of trusts described in paragraphs (b) and (c) of this section. Full information regarding eligibility to invest in savings bonds and authorized forms of registration and rights thereunder will be found in the regulations currently in force governing United States Savings Bonds.¹

(b) *Trustees of personal trust estates.* Bonds of Series E may be registered in the name and title of the trustee or trustees of a personal trust estate. The term "personal trust estate" as used herein is defined to mean, and is limited to, trust estates established by individuals, that is, natural persons in their own right, for the benefit of themselves or other such individuals, and common trusts comprised in whole or in part of such trust estates.

(c) *Trustees of employees' savings plans—(1) Definition of plan and conditions of eligibility.* Bonds of Series E may be registered in the name and title of the trustee or trustees of an employees' savings plan or any similar trust for the accumulation of employees' savings established by the employer for the

exclusive and irrevocable benefit of his employees or their beneficiaries which affords employees the means of making regular savings from their wages through payroll deductions, provides for employer contributions to be added to such savings, and provides in effect that:

(i) The entire assets thereof must be credited to the individual accounts of participating employees and assets credited to the account of an employee may be distributed only to him or his beneficiary, except as otherwise provided herein.

(ii) Bonds of Series E may be purchased only with assets credited to the accounts of participating employees and only if the amount taken from any account at any time for that purpose is equal to the purchase price of a bond or bonds in an authorized denomination or denominations, and shares therein are credited to the accounts of the individuals from which the purchase price thereof was derived, in amounts corresponding with their shares. For example, if \$37.50 credited to the account of John Jones is commingled with funds credited to the accounts of other employees to make a total of \$7,500, with which a bond of Series E in the denomination of \$10,000 (maturity value) is purchased in June 1957 and registered in the name and title of the trustee or trustees, the plan must provide, in effect, that John Jones' account shall be credited to show that he is the owner of a bond of Series E in the denomination of \$50 (maturity value) bearing issue date of June 1, 1957.

(iii) Each participating employee shall have an irrevocable right at any time to demand and receive from the trustee or trustees all assets credited to his account or the value thereof, if he so prefers, without regard to any condition other than the loss or suspension of the privilege of participating further in the plan, except that a plan will not be deemed to be inconsistent herewith, if it limits or modifies the exercise of any such right by providing that the employer's contribution does not vest absolutely until the employee shall have made contributions under the plan in each of not more than sixty calendar months succeeding the month for which the employer's contribution is made.

(iv) Upon the death of an employee, his beneficiary shall have the absolute and unconditional right to demand and receive from the trustee or trustees all the assets credited to the account of the employee, or the value thereof, if he so prefers.

(v) When settlement is made with an employee or his beneficiary with respect to any bond of Series E registered in the name and title of the trustee or trustees in which the employee has a share (see subdivision (ii) of this subparagraph), the bond must be submitted for redemption or reissue to the extent of such share; if an employee, or his beneficiary, is to receive distribution in kind, bonds bearing the same issue dates as those credited to the employee's account will be reissued in the name of the distributee to the extent to which he is entitled, in authorized denominations, in any authorized form of registration, upon the

request and certification of the trustee or trustees in accordance with the provisions of the regulations governing United States Savings Bonds.

(2) *Definitions of terms used in this section and related provision.* (i) The term "savings plan" includes any regulations issued under the plan with regard to bonds of Series E; a copy of the plan and any such regulations, together with a copy of the trust agreement certified by a trustee to be true copies, must be submitted to the Federal Reserve Bank of the District in order to establish the eligibility of the trustee or trustees to purchase such bonds under this section.

(ii) The term "assets" means all funds, including the employees' contributions and the employer's contributions and assets purchased therewith as well as accretions thereto, such as dividends on stock, the increment in value on bonds and all other income; but, notwithstanding any other provision of this section, the right to demand and receive "all assets" credited to the account of an employee shall not be construed to require the distribution of assets in kind when it would not be possible or practicable to make such distribution; for example, bonds of Series E may not be reissued in unauthorized denominations, and fractional shares of stock are not readily distributable in kind.

(iii) The term "beneficiary" means the person or persons, if any, designated by the employee in accordance with the terms of the plan to receive the benefits of the trust upon his death or the estate of the employee, and the term "distributee" means the employee or his beneficiary.

§ 316.8 *Limitation on holdings.* The limits on the amount of bonds of Series E originally issued during any one calendar year that may be held by any one person at any one time (which will be computed in accordance with the regulations currently in force governing United States Savings Bonds) are:

(a) *General limitation.* \$10,000 (maturity value) for the calendar year 1957² and each calendar year thereafter.

(b) *Special limitation applicable to the employees' savings plans described in § 316.7 (c).* \$2,000 (maturity value) multiplied by the highest number of participants in an employees' savings plan at any time during the year in which the bonds are issued.

§ 316.9 *Nontransferability.* Bonds of Series E may not be used as collateral for a loan or as security for the performance of an obligation, or transferred inter vivos by voluntary sale or gift, discounted or disposed of in any manner other than as provided in the regulations governing United States Savings Bonds. Except as provided in said regulations, the Treasury

²Effective May 1. Accordingly, investors who purchase \$20,000 (maturity value) of bonds of Series E-1957 bearing issue dates of January 1 through April 1 will not be entitled to purchase additional bonds of that series during 1957. Investors who have purchased less than \$10,000 (maturity value) of bonds of Series E prior to May 1 will be entitled only to purchase enough to bring their total for 1957 to \$10,000 (maturity value).

¹See Part 315 of this chapter (Department Circular No. 530).

Department will recognize only the inscribed owner, during his lifetime, and thereafter his estate or heirs.

§ 316.10 *Issue prices of bonds.* The issue prices of the various denominations of bonds of Series E follow:

Denomination (maturity value).....	\$25.00	\$50.00	\$100.00	\$200.00	\$500.00	\$1,000.00	\$5,000.00	\$10,000.00	\$100,000.00
Issue (purchase) price.....	18.75	37.50	75.00	150.00	375.00	750.00	7,500.00	7,500.00	75,000.00

¹ The \$100,000 denomination is available for purchase only by trustees of employees' savings plans described in § 316.7 (c).

§ 316.11 *Purchase of bonds.* Bonds of Series E may be purchased, while this offer is in effect, as follows:

(a) *Over-the-counter for cash.* (1) for individuals (natural persons) only (i) at such incorporated banks, trust companies and other agencies as have been duly qualified as issuing agents, and (ii) at selected United States post offices; and (2) for individuals (natural persons) or trustees of employees' savings plans and trustees of personal trust estates at Federal Reserve Banks and Branches and at the Treasury Department, Washington 25, D. C.

(b) *On mail order.* By mail upon application to the Treasurer of the United States, Washington 25, D. C., or to any Federal Reserve Bank or Branch, accompanied by a remittance to cover the issue price. Any form of exchange, including personal checks, will be accepted subject to collection. Checks, or other form of exchange, should be drawn to the order of the Federal Reserve Bank or Treasurer of the United States, as the case may be. Checks payable by endorsement are not acceptable. Any depositary qualified pursuant to the provisions of Part 203 of this chapter (Treasury Department Circular No. 92, Revised) will be permitted to make payment by credit for bonds applied for on behalf of its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve Bank of its District.

(c) *Savings stamps.* Savings stamps, in authorized denominations may be purchased at any post office where bonds of Series E are on sale and at such other agencies as may be designated from time to time. These stamps may be used to accumulate credits for the purchase of bonds of Series E. Albums, for affixing the stamps, will be available without charge, and such albums will be receivable, in the amount of the affixed stamps, on the purchase price of the bonds.

§ 316.12 *Delivery of Bonds.* Issuing agents are authorized to deliver bonds of Series E by mail at the risk and expense of the United States, at the address given by the purchaser, but only within the United States, its territories and possessions and the Canal Zone.¹ No mail deliveries elsewhere will be made. If purchased by citizens of the United States temporarily residing abroad, the bonds will be delivered at such address in the United States as the purchaser directs.

¹ During any war emergency the Treasury may suspend deliveries to be made at its risk and expense from or to the continental United States, its territories and possessions and the Canal Zone, or between any of such places.

§ 316.13 *Retention of bonds of Series E at further interest after maturity—(a) Series E bonds bearing issue dates of May 1, 1941, through January 1, 1957.* Owners of bonds of Series E bearing the issue dates specified in subparagraphs (1) to (3) of this paragraph have the option of retaining their matured bonds for a 10-year period after maturity (hereinafter referred to as the "extension period") and of earning interest upon the maturity values thereof as follows:

(1) *Series E bonds bearing issue dates of May 1, 1941, through April 1, 1942.* Such bonds earn interest after maturity for each half-year period at the rate of 2½ percent per annum simple interest, if redeemed before the first 7½ years of the extension period, and at a higher rate thereafter so that the aggregate return for the extension period will be approximately 2.90 percent per annum compounded semiannually, in accordance with the schedule of redemption values in Table D of this part.

(2) *Series E bonds bearing issue dates of May 1, 1942, through April 1, 1952.* Such bonds will earn interest after maturity at the rate of approximately 3 percent per annum compounded semiannually for each half-year period of the extension period and are redeemable in accordance with the schedule of redemption values in Table C of this part.

(3) *Series E bonds bearing issue dates of May 1, 1952, through January 1, 1957.* (i) Such bonds will earn interest after maturity at the rate of approximately 3 percent per annum compounded semiannually for each half-year period of the extension period and will be redeemable in accordance with the schedule of redemption values in Table B of this part.

(ii) Interest under the above provisions accrues at the end of the first half-year period following maturity and at the end of each successive half-year period thereafter. If the bonds are redeemed before the end of the first half-year period following maturity, the owner is entitled to payment only at the face value thereof.

(iii) The option provided in this section is as binding on the United States as if expressly set forth in the text of the bonds. No action is required of owners desiring to take advantage thereof. Merely by continuing to hold their bonds after maturity they will earn further interest in accordance with the schedule of redemption values set forth in the pertinent tables referred to above. The term "owners" as used in this section includes registered owners, coowners, surviving beneficiaries, next of kin and legatees of deceased owners, and persons who have acquired bonds pursuant to judicial proceedings against the owners, except that judgment creditors, trustees in bankruptcy and receivers of insol-

vents' estates will have the right only to payment in accordance with the regulations governing United States Savings Bonds.

(b) *Series E bonds bearing issue dates after January 1, 1957.* The terms of a retention privilege, if any, for owners of bonds of Series E bearing issue dates after January 1, 1957, will not be determined until later.⁴

§ 316.14 *Taxation—(a) General.* For the purpose of determining taxes and tax exemptions, the increment in value represented by the difference between the price paid for bonds of Series E (which are issued on a discount basis), and the redemption value received therefor shall be considered as interest. Such interest is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

(b) *Federal income tax as applied to matured bonds of Series E.* A taxpayer who has been reporting the increase in redemption value of his Series E bonds, for Federal income tax purposes, each year as it accrues, must continue to do so if he retains the bonds under § 316.13, unless in accordance with income tax regulations the taxpayer obtains permission from the Commissioner of Internal Revenue to change to a different method of reporting income from such obligations. A taxpayer who has not been reporting the increase in redemption value of such bonds currently for tax purposes may in any year prior to final maturity, and subject to the provisions of section 454 of the Internal Revenue Code of 1954 and of the regulations prescribed thereunder, elect for such year and subsequent years to report such income annually. Holders of bonds of Series E who have not reported the increase in redemption value currently are required to include such amount in gross income for the taxable year of actual redemption or for the taxable year of final maturity, whichever is earlier. If further information concerning Federal taxes is desired, inquiry should be addressed to the District Director of Internal Revenue of the taxpayer's district or to the Internal Revenue Service, Washington 25, D. C.

§ 316.15 *Lost, stolen, or destroyed bonds.* If a bond of Series E is lost, stolen, or destroyed, a substitute may be issued or payment may be obtained upon identification of the bond and proof of

⁴ However, under the previous revision (Third Revision, dated April 29, 1952) of this part owners of Series E bonds bearing issue dates of February 1 through April 1, 1957, have the same option as owners of the bonds described in paragraph (a) (3) of this section and the redemption values set forth in Table B under the heading "Extended maturity period" apply to such bonds. Since their original maturity is shortened to 8 years and 11 months under § 316.4 of this revision, they will reach extended maturity in 18 years and 11 months after issue date.

its loss, theft, or destruction. The owner should keep a description of his bonds by series, denomination, serial number and name of coowner or beneficiary, if any, apart from the bonds, and in case of loss, theft, or destruction should immediately notify the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, briefly stating the facts and describing the bonds. Full instructions for obtaining substitute bonds or payment will then be given.

§ 316.16 *Payment or redemption (in general).* A bond of Series E may be redeemed at the option of the owner at any time after two months from the issue date at the appropriate redemption value as shown in Tables A, B, C and D of this part, which apply to bonds bearing various issue dates back to May 1, 1941. The redemption values of bonds in the denomination of \$100,000⁵ (which was authorized as of January 1, 1954) are not shown in those tables. However, the redemption values of bonds in that denomination will be equal to the total redemption values of ten \$10,000 bonds bearing the same issue dates; accordingly, depending upon the issue date of bonds in the denomination of \$100,000, refer to Table A or Table B. A bond of Series E in a denomination higher than \$25 (maturity value) may be redeemed in part but only in the amount of an authorized denomination or multiple thereof. Payment of a bond of Series E will be made upon presentation and surrender of the bond by the owner to authorized paying agencies as follows:

(a) *Federal Reserve Banks and Branches and Treasurer of the United States.* Owners of bonds of Series E may obtain payment upon presentation of the bonds to a Federal Reserve Bank or Branch or to the Treasurer of the United States, Washington 25, D. C., with the requests for payment on the bonds duly executed and certified in accordance with the provisions of the regulations governing savings bonds.

(b) *Incorporated banks, trust companies and other financial institutions.* An individual (natural person) whose name is inscribed on the face of a bond of Series E either as owner or coowner in his own right may also present such bond (unless marked "Duplicate") to any incorporated bank or trust company or other financial institution which is qualified as a paying agent under the provisions of Part 321 of this chapter (Department Circular No. 750) or any revision or of amendment thereto. If such bond is in order for payment by the paying agent, the owner or coowner, upon establishing his identity to the satisfaction of the paying agent and upon signing the request for payment and adding his home or business address, may receive immediate payment of the current redemption value.

§ 316.17 *Payment or redemption in the case of disability or death.* In case of the disability of the registered owner, or the death of the registered owner not

survived by a coowner or a designated beneficiary, instructions should be obtained from a Federal Reserve Bank or Branch, or the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, before the request for payment is executed.

§ 316.18 *General provisions—(a) Regulations.* All bonds of Series E issued pursuant to this part shall be subject to the regulations prescribed from time to time by the Secretary of the Treasury to govern United States Savings Bonds. Such regulations may require, among other things, reasonable notice in case of presentation of bonds of Series E for redemption prior to maturity. The present regulations are set forth in Part 315 of this chapter (Treasury Department Circular No. 530, current revision), copies of which may be obtained on application to the Treasury Department or to any Federal Reserve Bank or Branch.

(b) *Reservation as to issue of bonds.* The Secretary of the Treasury reserves the right to reject any application for bonds of Series E, in whole or in part, and to refuse to issue or permit to be issued hereunder any such bonds in any case or any class or classes of cases if he deems such action to be in the public interest, and his action in any such respect shall be final.

(c) *Previous circulars; preservation of existing rights.* The provisions of pre-

vious Treasury Department circulars not in conformity with this part are hereby modified and amended accordingly: *Provided, however,* That nothing contained in this part shall limit or be construed to limit or restrict any existing rights which owners of bonds of Series E have acquired under the circulars previously in force.

(d) *Fiscal agents.* Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the issue, delivery, redemption, and payment of bonds of Series E.

(e) *Reservation as to terms of part.* The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this part, or of any amendments or supplements thereto.

Compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.: 60 Stat. 237) is found to be impracticable and unnecessary with respect to this document. Nothing contained herein abridges or restricts any existing rights acquired by owners of bonds of Series E under previous circulars. Moreover, certain provisions hereof are exclusively matters of fiscal policy and are based upon legislation recently enacted.

[SEAL]

G. M. HUMPHREY,
Secretary of the Treasury.

TABLE A—UNITED STATES SAVINGS BONDS—SERIES E

TABLE OF REDEMPTION VALUES AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES BEGINNING FEBRUARY 1, 1957¹

Table showing: (1) How bonds of Series E bearing issue dates beginning February 1, 1957, by denominations, increase in redemption value during successive half-year periods following issue; (2) the approximate investment yield on the purchase price from issue date to the beginning of each half-year period; and (3) the approximate investment yield on the current redemption value from the beginning of each half-year period to maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Maturity value.....	\$25.00	\$50.00	\$100.00	\$200.00	\$500.00	\$1,000.00	\$10,000.00	Approximate investment yield	
Issue price.....	18.75	37.50	75.00	150.00	375.00	750.00	7,500.00		
Period after issue date	(1) Redemption values during each half-year period ² (values increase on first day of period shown)							(2) On purchase price from issue date to beginning of each half-year period ²	(3) On current redemption value from beginning of each half-year period ² to maturity
								Percent	Percent
First ½ year.....	\$18.75	\$37.50	\$75.00	\$150.00	\$375.00	\$750.00	\$7,500.00		3.25
½ to 1 year.....	18.90	37.80	75.60	151.20	378.00	756.00	7,560.00	1.60	3.25
1 to 1½ years.....	19.18	38.36	76.72	153.44	383.60	767.20	7,672.00	2.28	3.28
1½ to 2 years.....	19.48	38.96	77.92	155.84	389.60	779.20	7,792.00	2.56	3.30
2 to 2½ years.....	19.81	39.62	79.24	158.48	396.20	792.40	7,924.00	2.77	3.30
2½ to 3 years.....	20.15	40.30	80.60	161.20	403.00	806.00	8,060.00	2.90	3.28
3 to 3½ years.....	20.50	41.00	82.00	164.00	410.00	820.00	8,200.00	3.00	3.28
3½ to 4 years.....	20.85	41.70	83.40	166.80	417.00	834.00	8,340.00	3.06	3.28
4 to 4½ years.....	21.21	42.42	84.84	169.68	424.20	848.40	8,484.00	3.11	3.25
4½ to 5 years.....	21.57	43.14	86.28	172.56	431.40	862.80	8,628.00	3.14	3.25
5 to 5½ years.....	21.94	43.88	87.76	175.52	438.80	877.60	8,776.00	3.17	3.26
5½ to 6 years.....	22.31	44.62	89.24	178.48	446.20	892.40	8,924.00	3.19	3.26
6 to 6½ years.....	22.68	45.36	90.72	181.44	453.60	907.20	9,072.00	3.20	3.25
6½ to 7 years.....	23.06	46.12	92.24	184.48	461.20	922.40	9,224.00	3.21	3.25
7 to 7½ years.....	23.44	46.88	93.76	187.52	468.80	937.60	9,376.00	3.21	3.26
7½ to 8 years.....	23.83	47.66	95.32	190.64	476.60	953.20	9,532.00	3.22	3.41
8 to 8½ years.....	24.22	48.44	96.88	193.76	484.40	968.80	9,688.00	3.23	3.46
8½ years to 8 years and 11 months.....	24.61	49.22	98.44	196.88	492.20	984.40	9,844.00	3.23	3.81
Maturity value (8 years and 11 months from issue date).....	25.00	50.00	100.00	200.00	500.00	1,000.00	10,000.00	3.25	-----

⁵ The \$100,000 denomination is available for purchase only by trustees of employees savings plans described in § 316.7 (c).

¹ See footnote 4 to § 316.13 with reference to retention privileges after maturity attaching to bonds bearing issue dates of Feb. 1 through Apr. 1, 1957.

² 5-month period in the case of the 8½-year to 8-year and 11-month period.

³ Approximate investment yield for entire period from issuance to maturity.

TABLE B—UNITED STATES SAVINGS BONDS—SERIES E

TABLE OF REDEMPTION VALUES AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES FROM MAY 1, 1952, THROUGH JANUARY 1, 1957

Table showing: (1) How bonds of Series E bearing issue dates beginning May 1, 1952, by denominations, increase in redemption value during successive half-year periods following issue or date of original maturity; (2) the approximate investment yield on the purchase price from issue date to the beginning of each half-year period; and (3) the approximate investment yield on the current redemption value from the beginning of each half-year period (a) to maturity or (b) to extended maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Maturity value.....	\$25.00	\$50.00	\$100.00	\$200.00	\$500.00	\$1,000.00	\$10,000	Approximate investment yield ¹	
Issue price.....	18.75	37.50	75.00	150.00	375.00	750.00	7,500		
Period after issue date	(1) Redemption values during each half-year period ² (values increase on first day of period shown)							(2) On purchase price from issue date to beginning of each half-year period ³	(3) On current redemption value from beginning of each half-year period ³ (a) to maturity
								Percent	Percent
First ½ year.....	\$18.75	\$37.50	\$75.00	\$150.00	\$375.00	\$750.00	\$7,500	0.00	3.00
½ to 1 year.....	18.85	37.70	75.40	150.80	377.00	754.00	7,540	1.07	3.10
1 to 1½ years.....	19.05	38.10	76.20	152.40	381.00	762.00	7,620	1.59	3.16
1½ to 2 years.....	19.30	38.60	77.20	154.40	386.00	772.00	7,720	1.94	3.19
2 to 2½ years.....	19.55	39.10	78.20	156.40	391.00	782.00	7,820	2.10	3.23
2½ to 3 years.....	19.80	39.60	79.20	158.40	396.00	792.00	7,920	2.19	3.28
3 to 3½ years.....	20.05	40.10	80.20	160.40	401.00	802.00	8,020	2.25	3.34
3½ to 4 years.....	20.30	40.60	81.20	162.40	406.00	812.00	8,120	2.28	3.41
4 to 4½ years.....	20.55	41.10	82.20	164.40	411.00	822.00	8,220	2.30	3.49
4½ to 5 years.....	20.90	41.80	83.60	167.20	418.00	836.00	8,360	2.43	3.50
5 to 5½ years.....	21.25	42.50	85.00	170.00	425.00	850.00	8,500	2.52	3.51
5½ to 6 years.....	21.60	43.20	86.40	172.80	432.00	864.00	8,640	2.59	3.54
6 to 6½ years.....	21.95	43.90	87.80	175.60	439.00	878.00	8,780	2.64	3.58
6½ to 7 years.....	22.30	44.60	89.20	178.40	446.00	892.00	8,920	2.69	3.64
7 to 7½ years.....	22.65	45.30	90.60	181.20	453.00	906.00	9,060	2.72	3.74
7½ to 8 years.....	23.00	46.00	92.00	184.00	460.00	920.00	9,200	2.74	3.89
8 to 8½ years.....	23.40	46.80	93.60	187.20	468.00	936.00	9,360	2.79	4.01
8½ to 9 years.....	23.80	47.60	95.20	190.40	476.00	952.00	9,520	2.83	4.26
9 to 9½ years.....	24.20	48.40	96.80	193.60	484.00	968.00	9,680	2.86	4.94
9½ years to 9 years and 8 months.....	24.60	49.20	98.40	196.80	492.00	984.00	9,840	2.88	9.92
Maturity value (9 years and 8 months from issue date).....	25.00	50.00	100.00	200.00	500.00	1,000.00	10,000	3.00	-----
Period after maturity date	Extended maturity period							(b) to extended maturity	
First ½ year.....	\$25.00	\$50.00	\$100.00	\$200.00	\$500.00	\$1,000.00	\$10,000	3.00	3.00
½ to 1 year.....	25.37	50.75	101.50	203.00	507.50	1,015.00	10,150	3.00	3.00
1 to 1½ years.....	25.75	51.50	103.00	206.00	515.00	1,030.00	10,300	3.00	3.00
1½ to 2 years.....	26.12	52.25	104.50	209.00	522.50	1,045.00	10,450	2.99	3.01
2 to 2½ years.....	26.50	53.00	106.00	212.00	530.00	1,060.00	10,600	2.99	3.02
2½ to 3 years.....	26.90	53.80	107.60	215.20	538.00	1,076.00	10,760	2.99	3.02
3 to 3½ years.....	27.30	54.60	109.20	218.40	546.00	1,092.00	10,920	2.99	3.02
3½ to 4 years.....	27.70	55.40	110.80	221.60	554.00	1,108.00	11,080	2.99	3.03
4 to 4½ years.....	28.10	56.20	112.40	224.80	562.00	1,124.00	11,240	2.98	3.04
4½ to 5 years.....	28.50	57.00	114.00	228.00	570.00	1,140.00	11,400	2.98	3.05
5 to 5½ years.....	28.95	57.90	115.80	231.60	579.00	1,158.00	11,580	2.98	3.04
5½ to 6 years.....	29.40	58.80	117.60	235.20	588.00	1,176.00	11,760	2.99	3.04
6 to 6½ years.....	29.85	59.70	119.40	238.80	597.00	1,194.00	11,940	2.99	3.03
6½ to 7 years.....	30.30	60.60	121.20	242.40	606.00	1,212.00	12,120	2.99	3.04
7 to 7½ years.....	30.75	61.50	123.00	246.00	615.00	1,230.00	12,300	2.99	3.05
7½ to 8 years.....	31.20	62.40	124.80	249.60	624.00	1,248.00	12,480	2.99	3.07
8 to 8½ years.....	31.65	63.30	126.60	253.20	633.00	1,266.00	12,660	2.99	3.12
8½ to 9 years.....	32.15	64.30	128.60	257.20	643.00	1,286.00	12,860	2.99	3.10
9 to 9½ years.....	32.65	65.30	130.60	261.20	653.00	1,306.00	13,060	2.99	3.10
9½ to 10 years.....	33.15	66.30	132.60	265.20	663.00	1,326.00	13,260	3.00	3.14
Extended maturity value (10 years from original maturity date) ⁴	33.67	67.34	134.68	269.36	673.40	1,346.80	13,468	3.00	-----

¹ Calculated on basis of \$1,000 bond (face value).² 2-month period in the case of the 9½-year to 9-year and 8-month period.³ Approximate investment yield for entire period from issuance to maturity.⁴ 19 years and 8 months after issue date.

TABLE C—UNITED STATES SAVINGS BONDS—SERIES E
TABLE OF REDEMPTION VALUES AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES FROM MAY 1, 1942, THROUGH APRIL 1, 1952

Table showing: (1) How bonds of Series E bearing issue dates from May 1, 1942, through April 1, 1952, by denominations, increase in redemption value during successive half-year periods following issue or date of original maturity; (2) the approximate investment yield on the purchase price from issue date to the beginning of each half-year period; and (3) the approximate investment yield on the current redemption value from the beginning of each half-year period (a) to maturity or (b) to extended maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Maturity value Issue price	\$10.00	\$25.00	\$50.00	\$100.00	\$200.00	\$500.00	\$1,000.00	Approximate investment yield ¹
First 1/4 year	7.50	18.75	37.50	75.00	150.00	375.00	750.00	2.90
1/2 to 1 year	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.00
1 to 1 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.05
1 1/2 to 2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.15
2 to 2 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.25
2 1/2 to 3 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.35
3 to 3 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.45
3 1/2 to 4 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.55
4 to 4 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.65
4 1/2 to 5 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.75
5 to 5 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.85
5 1/2 to 6 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	3.95
6 to 6 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.05
6 1/2 to 7 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.15
7 to 7 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.25
7 1/2 to 8 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.35
8 to 8 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.45
8 1/2 to 9 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.55
9 to 9 1/2 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.65
9 1/2 to 10 years	7.50	18.75	37.50	75.00	150.00	375.00	750.00	4.75
Maturity value (10 years from issue date)	10.00	25.00	50.00	100.00	200.00	500.00	1,000.00	2.90

Period after issue date	(1) Redemption values during each half-year period (values increase on first day of period shown)	(2) On purchase price from issue date to beginning of each half-year period	(3) On current redemption value from beginning of each half-year period (a) to maturity
First 1/4 year	\$7.50	Percent 0.00	Percent 2.90
1/2 to 1 year	\$18.75	Percent 0.00	Percent 3.00
1 to 1 1/2 years	\$37.50	Percent 0.00	Percent 3.05
1 1/2 to 2 years	\$75.00	Percent 0.00	Percent 3.15
2 to 2 1/2 years	\$150.00	Percent 0.00	Percent 3.25
2 1/2 to 3 years	\$375.00	Percent 0.00	Percent 3.35
3 to 3 1/2 years	\$750.00	Percent 0.00	Percent 3.45
3 1/2 to 4 years	\$1,000.00	Percent 0.00	Percent 3.55
4 to 4 1/2 years	\$1,000.00	Percent 0.00	Percent 3.65
4 1/2 to 5 years	\$1,000.00	Percent 0.00	Percent 3.75
5 to 5 1/2 years	\$1,000.00	Percent 0.00	Percent 3.85
5 1/2 to 6 years	\$1,000.00	Percent 0.00	Percent 3.95
6 to 6 1/2 years	\$1,000.00	Percent 0.00	Percent 4.05
6 1/2 to 7 years	\$1,000.00	Percent 0.00	Percent 4.15
7 to 7 1/2 years	\$1,000.00	Percent 0.00	Percent 4.25
7 1/2 to 8 years	\$1,000.00	Percent 0.00	Percent 4.35
8 to 8 1/2 years	\$1,000.00	Percent 0.00	Percent 4.45
8 1/2 to 9 years	\$1,000.00	Percent 0.00	Percent 4.55
9 to 9 1/2 years	\$1,000.00	Percent 0.00	Percent 4.65
9 1/2 to 10 years	\$1,000.00	Percent 0.00	Percent 4.75
Maturity value (10 years from issue date)	\$1,000.00	Percent 2.90	Percent 4.95

Period after maturity date	Extended maturity period	(b) to extended maturity
First 1/4 year	\$25.00	2.90
1/2 to 1 year	\$50.00	2.90
1 to 1 1/2 years	\$75.00	2.90
1 1/2 to 2 years	\$100.00	2.90
2 to 2 1/2 years	\$125.00	2.90
2 1/2 to 3 years	\$150.00	2.90
3 to 3 1/2 years	\$175.00	2.90
3 1/2 to 4 years	\$200.00	2.90
4 to 4 1/2 years	\$225.00	2.90
4 1/2 to 5 years	\$250.00	2.90
5 to 5 1/2 years	\$275.00	2.90
5 1/2 to 6 years	\$300.00	2.90
6 to 6 1/2 years	\$325.00	2.90
6 1/2 to 7 years	\$350.00	2.90
7 to 7 1/2 years	\$375.00	2.90
7 1/2 to 8 years	\$400.00	2.90
8 to 8 1/2 years	\$425.00	2.90
8 1/2 to 9 years	\$450.00	2.90
9 to 9 1/2 years	\$475.00	2.90
9 1/2 to 10 years	\$500.00	2.90
Maturity value (10 years from original maturity date)	\$1,000.00	2.95

¹ Calculated on basis of \$1,000 bond (face value).

² Approximate investment yield for entire period from issuance to original maturity.

³ 20 years from issue date.

TABLE D—UNITED STATES SAVINGS BONDS—SERIES E
TABLE OF REDEMPTION VALUES AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES FROM MAY 1, 1941, THROUGH APRIL 1, 1942

Table showing: (1) How bonds of Series E bearing issue dates from May 1, 1941, through April 1, 1942, by denominations, increase in redemption value during successive half-year periods following issue or date of original maturity; (2) the approximate investment yield on the purchase price from issue date to the beginning of each half-year period; and (3) the approximate investment yield on the current redemption value from the beginning of each half-year period (a) to maturity or (b) to extended maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Maturity value Issue price	\$25.00	\$50.00	\$100.00	\$500.00	\$1,000.00	Approximate investment yield ¹
First 1/4 year	18.75	37.50	75.00	375.00	750.00	2.90
1/2 to 1 year	18.75	37.50	75.00	375.00	750.00	3.00
1 to 1 1/2 years	18.75	37.50	75.00	375.00	750.00	3.05
1 1/2 to 2 years	18.75	37.50	75.00	375.00	750.00	3.15
2 to 2 1/2 years	18.75	37.50	75.00	375.00	750.00	3.25
2 1/2 to 3 years	18.75	37.50	75.00	375.00	750.00	3.35
3 to 3 1/2 years	18.75	37.50	75.00	375.00	750.00	3.45
3 1/2 to 4 years	18.75	37.50	75.00	375.00	750.00	3.55
4 to 4 1/2 years	18.75	37.50	75.00	375.00	750.00	3.65
4 1/2 to 5 years	18.75	37.50	75.00	375.00	750.00	3.75
5 to 5 1/2 years	18.75	37.50	75.00	375.00	750.00	3.85
5 1/2 to 6 years	18.75	37.50	75.00	375.00	750.00	3.95
6 to 6 1/2 years	18.75	37.50	75.00	375.00	750.00	4.05
6 1/2 to 7 years	18.75	37.50	75.00	375.00	750.00	4.15
7 to 7 1/2 years	18.75	37.50	75.00	375.00	750.00	4.25
7 1/2 to 8 years	18.75	37.50	75.00	375.00	750.00	4.35
8 to 8 1/2 years	18.75	37.50	75.00	375.00	750.00	4.45
8 1/2 to 9 years	18.75	37.50	75.00	375.00	750.00	4.55
9 to 9 1/2 years	18.75	37.50	75.00	375.00	750.00	4.65
9 1/2 to 10 years	18.75	37.50	75.00	375.00	750.00	4.75
Maturity value (10 years from issue date)	25.00	50.00	100.00	500.00	1,000.00	2.90

Period after maturity date	Extended maturity period	(b) to extended maturity
First 1/4 year	\$25.00	2.90
1/2 to 1 year	\$50.00	2.90
1 to 1 1/2 years	\$75.00	2.90
1 1/2 to 2 years	\$100.00	2.90
2 to 2 1/2 years	\$125.00	2.90
2 1/2 to 3 years	\$150.00	2.90
3 to 3 1/2 years	\$175.00	2.90
3 1/2 to 4 years	\$200.00	2.90
4 to 4 1/2 years	\$225.00	2.90
4 1/2 to 5 years	\$250.00	2.90
5 to 5 1/2 years	\$275.00	2.90
5 1/2 to 6 years	\$300.00	2.90
6 to 6 1/2 years	\$325.00	2.90
6 1/2 to 7 years	\$350.00	2.90
7 to 7 1/2 years	\$375.00	2.90
7 1/2 to 8 years	\$400.00	2.90
8 to 8 1/2 years	\$425.00	2.90
8 1/2 to 9 years	\$450.00	2.90
9 to 9 1/2 years	\$475.00	2.90
9 1/2 to 10 years	\$500.00	2.90
Maturity value (10 years from original maturity date)	\$1,000.00	2.90

¹ Calculated on basis of \$1,000 bond (face value).

² Approximate investment yield for entire period from issuance to maturity.

³ 20 years from issue date.

[F. R. Doc. 57-3347; Filed, Apr. 24, 1957; 12:30 p. m.]

[1957 Dept. Circular 905, Revised]

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

APRIL 22, 1957.

Department Circular No. 905, dated May 21, 1952, as amended (31 CFR Part 332), is hereby revised to read as follows:

- Sec.
332.1 Offering of bonds.
332.2 Description.
332.3 Term.
332.4 Interest.
332.5 Applicability to bonds bearing issue dates of February 1 through April 1, 1957, as well as subsequent issue dates.
332.6 Bonds purchased before new stock is available.
332.7 Taxation.
332.8 Registration.
332.9 Limitation on holdings.
332.10 Nontransferability.
332.11 Purchase of bonds.
332.12 Delivery of bonds.
332.13 Lost, stolen, or destroyed bonds.
332.14 Payment or redemption.
332.15 General provisions.

AUTHORITY: §§ 332.1 to 332.15 issued under sec. 22, 49 Stat. 21, as amended; 31 U. S. C. 757c.

§ 332.1 *Offering of bonds.* The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended (31 U. S. C. 757c), offers for sale to the people of the United States, United States Savings Bonds of Series H (hereinafter referred to as bonds of Series H). These bonds will be substantially a continuation of the bonds of Series H heretofore available, except as otherwise indicated herein. This offering of bonds will continue until terminated by the Secretary of the Treasury.

§ 332.2 *Description.* Bonds of Series H will be issued only in registered form. See § 332.8 for information concerning registration. They will be issued at par in denominations of \$500, \$1,000, \$5,000, and \$10,000. Each bond will bear the facsimile signature of the Secretary of the Treasury, and will bear an imprint of the Seal of the Treasury Department. At the time of issue, the issuing agent will inscribe on the face of each bond the name and address of the owner and the name of the coowner or beneficiary, if any; will enter the issue date of the bond; and will imprint the agent's dating stamp (to show the date the bond is actually inscribed). A bond of Series H shall be valid only if an authorized issuing agent receives payment therefor, duly inscribes, dates, and stamps the bond, and delivers it to the purchaser or his agent.

§ 332.3 *Term.* A bond of Series H will be dated as of the first day of the month in which payment of the issue price is received by an agent authorized to issue the bonds. This date is the issue date and the bond will mature 10 years from such issue date. The issue date should not be confused with the date appearing in the issuing agent's stamp, which indicates the date the bond is actually inscribed. The bonds may not be called for redemption by the Secretary of the Treasury prior to maturity, but any bond of Series H may be redeemed at PAR prior to maturity,

after 6 months from the issue date, at the owner's option, but only upon one calendar month's notice as provided in § 332.14.

§ 332.4 *Interest.* Bonds of Series H will be issued at par, and will bear interest from the issue date payable semiannually by check drawn to the order of the registered owner or coowners, beginning six months from issue date. Interest payments will be based on a graduated scale of amounts (as shown in Table A of this part) which have been fixed to afford an investment yield of approximately 3.25 percent per annum compounded semiannually, if the bonds are held to maturity; if the owner exercises his option to redeem a bond prior to maturity, the yield will be less. Interest will cease at maturity, or in case of redemption before maturity, at the end of the interest period next preceding the date of redemption, except that, if the date of redemption falls on an interest payment date, interest will cease on that date.

§ 332.5 *Applicability to bonds bearing issue dates of February 1 through April 1, 1957 as well as subsequent issue dates.* The term of maturity and the yield provided for in §§ 332.3 and 332.4 shall apply to all bonds of Series H bearing issue dates of February 1 through April 1, 1957 (as well as those bearing subsequent issue dates). Final interest on such bonds will not be payable until held 10 years from the issue date, instead of at the end of 9 years and 8 months.¹

§ 332.6 *Bonds purchased before new stock is available.* Until bonds have been printed and are ready for issue bonds of Series H in the form on sale prior to February 1, 1957, will be issued for purchases made under this part. Bonds of Series H purchased in the interval until the new stocks are available will carry the new interest rate and the term of maturity provided for in § 332.3 and all other privileges as fully as if expressly set forth in the text of the bonds themselves. The owners, if they desire to do so, may exchange such bonds at any Federal Reserve Bank or Branch or at the Treasury Department, Washington 25, D. C., for bonds in the new form (with the same registration and issue dates), when the latter become available; but they need not do so because the Treasury Department will, as a matter of course, issue interest checks for all bonds of Series H bearing issue dates on and after February 1, 1957, in the appropriate amounts as set forth in Table A of this part.

§ 332.7 *Taxation.* The income derived from bonds of Series H is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the prin-

cipal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

§ 332.8 *Registration.* Generally, only residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Canal Zone and citizens of the United States temporarily residing abroad are eligible to invest in bonds of Series H. The bonds may be registered in the names of natural persons in their own right in the three conventional forms of registration, single ownership, coownership and beneficiary forms, heretofore available. The bonds may also be registered in the names and titles of the legal representatives of natural persons (guardians, custodians, conservators, etc.) and of trustees of personal trust estates. The term "personal trust estates" as used herein is defined to mean, and is limited to, trust estates established by individuals, that is, natural persons in their own right, for the benefit of themselves or other such individuals, and common trusts comprised in whole or in part of such trust estates. Full information regarding eligibility to invest in savings bonds and authorized forms of registration and rights thereunder will be found in the regulations currently in force governing United States Savings Bonds.²

§ 332.9 *Limitation on holdings.* The amount of bonds of Series H originally issued during any one calendar year that may be held by any one person at any one time shall not exceed \$10,000 (maturity value) for the calendar year 1957,³ and each calendar year thereafter, which will be computed in accordance with the regulations currently in force governing United States Savings Bonds.

§ 332.10 *Nontransferability.* Bonds of Series H may not be used as collateral for a loan or as security for the performance of an obligation, or transferred inter vivos by voluntary sale or gift, discounted or disposed of in any manner other than as provided in the regulations governing United States Savings Bonds. Except as provided in said regulations, the Treasury Department will recognize only the inscribed owner, during his lifetime, and thereafter his estate or heirs.

§ 332.11 *Purchase of bonds—(a) Agencies.* Bonds of Series H may be purchased only at Federal Reserve Banks and Branches, and at the Treasury Department, Washington 25, D. C. Customers of commercial banks and trust companies may be able to arrange for the purchase of such bonds through such institutions, but only the Federal Reserve Banks and Branches and the Treasury Department are authorized to

¹ Part 315 of this chapter (Department Circular No. 530).

² Effective May 1. Accordingly, investors who purchase \$20,000 (maturity value) of bonds of Series H-1957 bearing issue dates of January 1 through April 1 will not be entitled to purchase additional bonds of that series during 1957. Investors who have purchased less than \$10,000 (maturity value) of bonds of Series H prior to May 1 will be entitled only to purchase enough to bring their total for 1957 to \$10,000 (maturity value).

³ Table B of this part shows the schedule of checks, the interim investment yields and the yield to maturity of bonds of Series H bearing issue dates beginning June 1, 1952 (when they were first offered for sale), through January 1, 1957.

act as official agencies, and the date of receipt of application and payment at an official agency will govern the dating of the bonds issued.

(b) *Issue prices.* The issue prices of bonds of Series H of the various denominations will be the par amount thereof as follows: \$500, \$1,000, \$5,000, and \$10,000.

(c) *Application.* In applying for bonds under this part, care should be taken to furnish: (1) Instructions for registration of the bonds to be issued, which must be in one of the authorized forms (see § 332.8); (2) the post office address of the owner; (3) the address for delivery of the bonds; and (4) the address for mailing interest checks. The application should be forwarded to a Federal Reserve Bank or Branch, or to the Treasurer of the United States, Washington 25, D. C., accompanied by a remittance to cover the purchase price as shown in paragraph (b) of this section. Any form United States, as the case may be. Checks will be accepted, subject to collection. Checks or other forms of exchange should be drawn to the order of the Federal Reserve Bank or the Treasurer of the United States, as the case may be. Checks payable by endorsement are not acceptable. Any depository qualified pursuant to the provisions of Part 203 of this chapter (Treasury Department Circular No. 92 Revised) will be permitted to make payment by credit for bonds applied for on behalf of its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve Bank of its District.

§ 332.12 *Delivery of bonds.* Authorized issuing agencies will deliver bonds of Series H either in person, or by mail at the risk and expense of the United States, at the address given by the purchaser, but only within the United States, its territories and possessions and the Canal Zone.⁴ No mail deliveries elsewhere will be made. If purchased by citizens of the United States temporarily residing abroad, the bonds will be delivered at such address in the United States as the purchaser directs.

§ 332.13 *Lost, stolen, or destroyed bonds.* If a bond of Series H is lost,

⁴ During any war emergency the Treasury may suspend deliveries to be made at its risk and expense from or to the continental United States and its territories and possessions and the Canal Zone, or between any of such places.

stolen, or destroyed, a substitute may be issued or payment may be obtained upon identification of the bond and proof of its loss, theft, or destruction. The owner should keep a description of his bonds by series, denomination, serial number and name of coowner or beneficiary, if any, apart from the bonds, and in case of loss, theft, or destruction should immediately notify the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, briefly stating the facts and describing the bonds. Full instructions for obtaining substitute bonds or payment will then be given.

§ 332.14 *Payment or redemption—(a) General.* A bond of Series H will be redeemed at PAR, in whole or in part (in the amount of an authorized denomination or multiple thereof), at the option of the owner, at any time after 6 months from the issue date, but only on the first day of a calendar month and upon one calendar month's notice in writing of desire to redeem by the owner. The request for payment of the bond must be executed and certified in accordance with the provisions of the applicable regulations. The presentation of the bond (with the request for payment duly executed) will be accepted as notice. Payment will be made when due following presentation of the bond to (1) a Federal Reserve Bank or Branch, (2) the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, or (3) the Treasurer of the United States, Washington 25, D. C. Formal notice to be effective, must be timely received by one of the above agencies and the bond must be presented to the same agency not less than 20 days before the redemption date fixed by the notice.

(b) *Disability or death.* In case of the disability of the registered owner, or the death of the registered owner not survived by a coowner or a designated beneficiary, instructions should be obtained from a Federal Reserve Bank or Branch, or the Bureau of the Public Debt, Division of Loans and Currency Branch, 536 South Clark Street, Chicago 5, Illinois, before the request for payment is executed.

§ 332.15 *General provisions—(a) Regulations.* All bonds of Series H issued pursuant to this part shall be subject

to the regulations prescribed from time to time by the Secretary of the Treasury to govern United States Savings Bonds. The present regulations are set forth in Part 315 of this chapter (Treasury Department Circular No. 530, current revision), copies of which may be obtained on application to the Treasury Department or to any Federal Reserve Bank or Branch.

(b) *Reservation as to issue of bonds.* The Secretary of the Treasury reserves the right to reject any application for bonds of Series H, in whole or in part, and to refuse to issue or permit to be issued hereunder any such bonds in any case or any class or classes of cases if he deems such action to be in the public interest, and his action in any such respect shall be final.

(c) *Previous circulars; preservation of existing rights.* The provisions of previous Treasury Department circulars not in conformity herewith are hereby modified and amended accordingly: *Provided, however,* That nothing contained in this part shall limit or be construed to limit or restrict any existing rights which owners of bonds of Series H have acquired under the circular previously in force.

(d) *Fiscal agents.* Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the issue, delivery, redemption, and payment of savings bonds of Series H.

(e) *Reservation as to terms of circular.* The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this part, or of any amendments or supplements thereto.

Compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is found to be impracticable and unnecessary with respect to this document. Nothing contained herein abridges or restricts any existing rights acquired by owners of bonds of Series H under previous circulars. Moreover, certain provisions hereof are exclusively matters of fiscal policy and are based upon legislation recently enacted.

[SEAL]

G. M. HUMPHREY,
Secretary of the Treasury.

TABLE A—UNITED STATES SAVINGS BONDS—SERIES H
TABLE OF CHECKS ISSUED AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES BEGINNING FEBRUARY 1, 1957

Table showing: (1) Amount of interest checks paid on United States Savings Bonds of Series H bearing issue dates beginning February 1, 1957, by denominations, on each interest payment date following issue; (2) the approximate investment yield on the face value from issue date to each interest payment date; and (3) the approximate investment yield on the face value from each interest payment date to maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Face value:	\$500.00	\$1,000.00	\$5,000.00	\$10,000.00	Approximate investment yield on face value	
Maturity value.....	500.00	1,000.00	5,000.00	10,000.00		
Redemption value ¹	500.00	1,000.00	5,000.00	10,000.00		
Issue price.....	500.00	1,000.00	5,000.00	10,000.00		

Period of time bond is held after issue date	(1) Amount of interest check for each denomination				(2) From issue date to each interest payment date	(3) From each interest payment date to maturity ²
					Percent	Percent
1/2 year.....	\$4.00	\$8.00	\$40.00	\$80.00	1.60	3.35
1 year.....	7.25	14.50	72.50	145.00	2.25	3.38
1 1/2 years.....	8.45	16.90	84.50	169.00	2.62	3.38
2 years.....	8.45	16.90	84.50	169.00	2.80	3.38
2 1/2 years.....	8.45	16.90	84.50	169.00	2.92	3.38
3 years.....	8.45	16.90	84.50	169.00	2.99	3.38
3 1/2 years.....	8.45	16.90	84.50	169.00	3.04	3.38
4 years.....	8.45	16.90	84.50	169.00	3.08	3.38
4 1/2 years.....	8.45	16.90	84.50	169.00	3.11	3.38
5 years.....	8.45	16.90	84.50	169.00	3.14	3.38
5 1/2 years.....	8.45	16.90	84.50	169.00	3.16	3.38
6 years.....	8.45	16.90	84.50	169.00	3.18	3.38
6 1/2 years.....	8.45	16.90	84.50	169.00	3.19	3.38
7 years.....	8.45	16.90	84.50	169.00	3.20	3.38
7 1/2 years.....	8.45	16.90	84.50	169.00	3.21	3.38
8 years.....	8.45	16.90	84.50	169.00	3.22	3.38
8 1/2 years.....	8.45	16.90	84.50	169.00	3.23	3.38
9 years.....	8.45	16.90	84.50	169.00	3.24	3.38
9 1/2 years.....	8.45	16.90	84.50	169.00	3.24	3.38
10 years (maturity).....	8.45	16.90	84.50	169.00	3.25	3.38

¹ At all times, except that bond is not redeemable during first 6 months.

² Approximate investment yield for entire period from issuance to maturity is 3.25 percent per annum.

TABLE B—UNITED STATES SAVINGS BONDS—SERIES H
TABLE OF CHECKS ISSUED AND INVESTMENT YIELDS FOR BONDS BEARING
ISSUE DATES FROM JUNE 1, 1952, THROUGH JANUARY 1, 1957

Table showing: (1) Amount of interest checks paid on United States Savings Bonds of Series H, by denominations, on each interest payment date following issue; (2) the approximate investment yield on the face value from issue date to each interest payment date; and (3) the approximate investment yield on the face value from each interest payment date to maturity. Yields are expressed in terms of rate percent per annum, compounded semiannually.

Face value:	\$500	\$1,000	\$5,000	\$10,000	Approximate investment yield on face value	
Maturity value.....	500	1,000	5,000	10,000		
Redemption value ¹	500	1,000	5,000	10,000		
Issue price.....	500	1,000	5,000	10,000		

Period of time bond is held after issue date	(1) Amount of interest check for each denomination				(2) From issue date to each interest payment date	(3) From each interest payment date to maturity ²
					Percent	Percent
1/2 year.....	\$2.00	\$4.00	\$20.00	\$40	0.80	3.13
1 year.....	6.25	12.50	62.50	125	1.65	3.18
1 1/2 years.....	6.25	12.50	62.50	125	1.93	3.22
2 years.....	6.25	12.50	62.50	125	2.07	3.27
2 1/2 years.....	6.25	12.50	62.50	125	2.15	3.34
3 years.....	6.25	12.50	62.50	125	2.21	3.41
3 1/2 years.....	6.25	12.50	62.50	125	2.25	3.49
4 years.....	6.25	12.50	62.50	125	2.28	3.58
4 1/2 years.....	8.50	17.00	85.00	170	2.40	3.60
5 years.....	8.50	17.00	85.00	170	2.49	3.63
5 1/2 years.....	8.50	17.00	85.00	170	2.57	3.66
6 years.....	8.50	17.00	85.00	170	2.63	3.69
6 1/2 years.....	8.50	17.00	85.00	170	2.69	3.74
7 years.....	8.50	17.00	85.00	170	2.73	3.81
7 1/2 years.....	8.50	17.00	85.00	170	2.77	3.91
8 years.....	8.50	17.00	85.00	170	2.81	4.07
8 1/2 years.....	8.50	17.00	85.00	170	2.84	4.36
9 years.....	8.50	17.00	85.00	170	2.87	5.10
9 1/2 years.....	8.50	17.00	85.00	170	2.89	10.37
9 years and 9 months (maturity).....	8.50	17.00	85.00	170	3.00	

¹ At all times, except that bond is not redeemable during first 6 months.

² Approximate investment yield for entire period from issuance to maturity is 3.00 percent per annum.

[F. R. Doc. 57-3348; Filed, Apr. 24, 1957; 12:30 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

POTOMAC RIVER, MARYLAND AND VIRGINIA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.40 establishing and governing three danger zones in the Potomac River near Dahlgren, Virginia, is amended to facilitate navigation of small craft in the Middle Danger Zone by adding at the end of paragraph (b) (2) (ii) a sentence as follows:

§ 204.40 Potomac River. * * *

(b) United States Naval Proving Ground, Dahlgren, Va. * * *

(2) The regulations. * * *

(ii) * * * Small craft traversing the Middle Danger Zone up or down the river during normal firing hours shall proceed outside of the northeastern boundary thereof or as close thereto as safe navigation permits.

[Regs., Apr. 8, 1957, 800.2121 (Potomac River)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-3367; Filed, Apr. 25, 1957; 8:45 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Subchapter D—Grants

PART 55—GRANTS FOR WATER POLLUTION CONTROL

SUBPART B—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

GRANT LIMITATIONS

Notice of proposed rule making and public rule making procedures have been omitted in the issuance of the following amendment of this part which relates solely to grants.

Section 55.25 (a) (2) is amended to read as follows:

(2) To be eligible for a grant, a project must result in an operable treatment works, or part thereof, which treats or stabilizes sewage or industrial wastes of a liquid nature in order to abate, control, or prevent water pollution. For the purposes of this subpart, such treatment or stabilization of sewage or industrial wastes of a liquid nature shall consist of at least primary treatment or its equivalent resulting in substantially complete removal of settleable solids.

(Sec. 10, 70 Stat. 506; 33 U. S. C. 4661. Interprets or applies sec. 6, 70 Stat. 502; 33 U. S. C. 466e)

Dated: April 10, 1957.

[SEAL] L. E. BURNEY,
Surgeon General.

Approved: April 22, 1957.

M. B. Folsom,
Secretary.

[F. R. Doc. 57-3382; Filed, Apr. 25, 1957;
8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1411]

[439566]

OREGON

REVOKING EXECUTIVE ORDER NO. 2233 OF AUGUST 6, 1915, WHICH WITHDREW PUBLIC LANDS FOR USE OF THE WAR DEPARTMENT FOR MILITARY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 2233 of August 6, 1915, which withdrew the following-described public lands in Oregon for use of the War Department for military purposes, is hereby revoked:

WILLAMETTE MERIDIAN

T. 26 S., R. 14 W.,
Sec. 3, lot 4.

The area described contains 32.06 acres.

2. The land is located in the south shore of the entrance to Coos Bay, at Coos Head, in Coos County, Oregon. The tract has only negligible crop value, except for small home vegetable and flower gardens. It is only accessible by ocean beach. The land is valuable for recreational purposes.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmin-

eral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and conformation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on May 28, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on August 27, 1957, will be governed by the time of filing.

(3) All valid applications and selections under the non-mineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on August 27, 1957, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that

hour will be governed by the time of filing.

b. The lands will be open to applications and offers under the mineral-leasing laws, and to location under the United States mining laws beginning at 10:00 a. m. on August 27, 1957.

5. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

HATFIELD CHILSON,
Acting Secretary of the Interior.

APRIL 22, 1957.

[F. R. Doc. 57-3370; Filed, Apr. 25, 1957;
8:46 a. m.]

[Public Land Order 1143]

[Anchorage 026092]

ALASKA

RESERVING LANDS FOR USE OF FOREST SERVICE AS ADDITIONS TO KETCHIKAN AND JUNEAU ADMINISTRATIVE SITES; CORRECTION

APRIL 22, 1957.

In Federal Register Document 55-3737, appearing as Public Land Order No. 1143 at page 3151 of the issue for Tuesday, May 10, 1955, the first line of the land description of the Ketchikan Marine Station should read as follows: "Beginning at Corner No. 4 M. C., U. S. Survey 1079 * * *".

E. J. THOMAS,
Associate Director.

[F. R. Doc. 57-3369; Filed, Apr. 25, 1957;
8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 301]

PINK BOLLWORM

DOMESTIC QUARANTINE NOTICE

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that the Administrator of the Agricultural Research Service, pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), and section 3 of the Insect Pest Act of 1905 (7 U. S. C. 143),

is considering amending notice of quarantine No. 52 relating to the pink bollworm and the regulations supplemental to said quarantine (7 CFR 301.52, 301.52-1 et seq.; 21 F. R. 3737) to read as follows:

QUARANTINE

Sec. 301.52 Notice of quarantine.

REGULATIONS

301.52-1 Definitions.
301.52-2 Designation of regulated area.
301.52-3 Regulated articles.
301.52-4 Conditions governing movement of certain regulated articles.

Sec. 301.52-5 Conditions governing the issuance of certificates and limited permits.
301.52-6 Assembly of articles for inspection.
301.52-7 Cancellation of certificates or limited permits.
301.52-8 Inspection and disposition.
301.52-9 Shipments for scientific purposes.
301.52-10 Nonliability of Department.

QUARANTINE

§ 301.52 Notice of quarantine. Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and

after the public hearings required thereby, the States of Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas have been and hereby are continued to be quarantined to prevent the spread of the pink bollworm, a dangerous insect of foreign origin notoriously injurious to cotton, okra, and kenaf and not heretofore widely prevalent or distributed within and throughout the United States, and under the authority conferred by the Plant Quarantine Act, as amended (7 U. S. C. 151 et seq.) and the Insect Pest Act of March 3, 1905 (7 U. S. C. 141 et seq.), supplemental regulations are hereinafter prescribed (§§ 301.52-1 to 301.52-10) governing the movement of the pink bollworm and carriers thereof. Hereafter the following shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from the quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in the regulations supplemental hereto, as from time to time amended:

(a) Live pink bollworms in any stage of development; (b) okra and kenaf, including all parts of the plants; (c) cotton and wild cotton, including all parts of both cotton and wild cotton plants; seed cotton; cotton lint; cotton linters; cottonseed; cotton waste produced at cotton gins, cottonseed oil mills, or textile mills; gin trash; all other forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed; cottonseed hulls; cottonseed cake; and cottonseed meal; (d) used bagging and other used wrappers for cotton; (e) used cotton harvesting equipment; (f) other farm products, other farm equipment, farm household goods, ginning and oil mill equipment, other cotton processing machinery, means of conveyance and, unlimited by the foregoing, any other products and articles of any character whatsoever, when it is determined in accordance with the supplemental regulations (§§ 301.52-1 to 301.52-10) that they present a hazard of spread of the pink bollworm. Moreover, movement of live pink bollworms and other products and articles enumerated above from a quarantined State or portion thereof into or through another quarantined State or portion thereof may be restricted or prohibited under regulations supplemental hereto. The requirements of this quarantine and of the supplemental regulations, except as otherwise provided in the regulations, are hereby limited to the areas in any quarantined State which may be designated as regulated area as provided in the regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated area will be adequate to prevent the spread of the pink bollworm, except that such limitation is further conditioned upon the affected State's providing for and enforcing control of the movement within such State of the regulated articles under the same condi-

tions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon the State's enforcing such control and sanitation measures with respect to such area or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the insect infestation. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the supplemental regulations apply, except live pink bollworms in any stage of development, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated area or portion thereof and for such article or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected area.

REGULATIONS

§ 301.52-1 *Definitions.* For the purposes of the regulations in this subpart the following terms shall be construed respectively to mean:

(a) *Pink bollworm.* The live insect known as the pink bollworm of cotton (*Pectinophora gossypiella* Saund.), in any stage of development.

(b) *Infestation.* The presence of the pink bollworm.

(c) *Regulated area.* The counties, parishes, and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.52-2 as regulated area.

(d) *Eradication area.* That part of the regulated area where eradication may be undertaken as an objective, as designated in administrative instructions under § 301.52-2.

(e) *Generally infested area.* All of the regulated area, exclusive of the eradication area, as designated in administrative instructions under § 301.52-2.

(f) *Regulated articles.* Pink bollworms and other products and articles of any character whatsoever, the movement of which is regulated by this quarantine (§ 301.52) and regulations supplemental thereto (§ 301.52-1 to 301.52-10).

(g) *Inspector.* An inspector of the United States Department of Agriculture.

(h) *"Moved" ("movement", "move").* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, interstate, directly or indirectly from or within the regulated area. "Movement" and "move" shall be construed accordingly.

(i) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(j) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, processing, or treatment.

(k) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(l) *Cotton.* All parts of cotton and wild cotton plants of the genera *Gossypium* and *Thurberia*, except cotton products.

(m) *Cotton products.* Seed cotton, lint, linters, cotton waste, gin trash, cottonseed, cottonseed hulls, cottonseed cake, and cottonseed meal.

(n) *Seed cotton.* All forms of cotton lint from which the seed has not been separated.

(o) *Lint.* All forms of raw ginned cotton except linters and cotton waste.

(p) *Linters.* All forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed, other than cotton waste.

(q) *Cotton waste.* All waste produced from the processing of cotton at gins, cottonseed oil mills, or textile mills in any form or under any trade designation. Gin trash is not within the definition of waste.

(r) *Gin trash.* All of the material produced during the cleaning and ginning of seed cotton, bolls, or snapped cotton except the lint, cottonseed, and cotton waste.

(s) *Okra (*Hibiscus esculentus* L.).* All parts of okra plants, including seeds and edible and dry pods.

(t) *Kenaf (*Hibiscus cannabinus* L.).* All parts of kenaf plants, including seeds and pods.

(u) *Interstate.* From one State, Territory, or District of the United States into or through another.

(v) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of the provisions thereof by the Director of the Plant Pest Control Division, Agricultural Research Service.

(w) *Person.* This term includes any corporation, company, society, or association, as well as any individual.

§ 301.52-2 *Designation of regulated area.* The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, parishes, and other minor civil divisions, or parts thereof, in the quarantined States, in which infestation of the pink bollworm has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such counties, parishes, and other civil divisions, or parts thereof, as constituting the regulated area: Any civil division, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication

measures have been practiced for a sufficient length of time to eradicate the pink bollworm therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as regulated area. The Director of the Plant Pest Control Division may, in said administrative instructions, divide the regulated area into an eradication area and a generally infested area.

§ 301.52-3 *Regulated articles*—(a) *Pink bollworms, removal prohibited, exception.* The removal from any State or Territory to any other State or Territory or the District of Columbia, or from said District to any State or Territory, of live pink bollworms, except for scientific purposes, is prohibited by the Insect Pest Act (7 U. S. C. 141). Provisions for the removal of live pink bollworms, for scientific purposes, are set forth in § 301.52-9.

(b) *Other regulated articles; movement regulated.* Unless exempted by administrative instructions, the movement of any of the following from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, is permitted only under the conditions provided in the regulations in this subpart: cotton, cotton products, okra, kenaf, used bagging and other used wrappers for cotton, used cotton harvesting equipment, and other products and articles determined by an inspector to present a hazard of spread of the pink bollworm under § 301.52-4 (a) (2).

(c) *Articles originating outside of the regulated area.* Regulated articles of kinds designated in paragraph (b) which originate outside of the regulated area, and are moving through or are being reshipped from the regulated area, may be moved from the regulated area and from the generally infested area into or through the eradication area, without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when they have been safeguarded against infestation while in the regulated area in a manner satisfactory to an inspector and do not present a hazard of spread of the pink bollworm. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated area.

§ 301.52-4 *Conditions governing movement of certain regulated articles*—(a) *Certificate or limited permit required*—(1) *Cotton, cotton products, okra, kenaf, bagging and equipment.* Except as exempted by administrative instructions or as provided in § 301.52-9, cotton, cotton products, okra, kenaf, used bagging and other used wrappers for cotton, and used cotton harvesting equipment shall not be moved from the regulated area into or through any point outside thereof or from the generally infested area into or through the eradication area, unless accompanied by a valid

certificate or limited permit issued in compliance with § 301.52-5 and unless the applicable requirements of paragraphs (b) and (c) of this section are also met.

(2) *Products and articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with pink bollworms or untreated cottonseed or cottonseed hulls or any other reason, a hazard of spread of the pink bollworms is presented by any farm products; farm equipment; farm household goods; ginning or oil mill equipment, other cotton processing machinery, or means of conveyance; or, unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by subparagraph (1) of this paragraph, notice of such fact shall be given to the person having custody thereof. Thereafter except as exempted in administrative instructions or as provided in § 301.52-9, such contaminated products and articles shall not be moved from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, unless accompanied by a valid certificate or limited permit issued in compliance with § 301.52-5 (a) (3) or (b) and unless the applicable requirements of paragraphs (b) and (c) of this section are also met.

(b) *Use of certificates or limited permits with shipments.* Every container of regulated articles covered by paragraph (a) of this section when offered for shipment under said paragraph, shall have securely attached to the outside thereof the certificate or limited permit covering the shipment, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each article will not be required. In the case of carlot or truck load shipments, a certificate or limited permit attached to the waybill will be sufficient.

(c) *Protecting certified articles.* Subsequent to certification as provided in § 301.52-5, regulated articles must be loaded, handled, and shipped only under such protection and safeguards against infestation as are required by the inspector.

§ 301.52-5 *Conditions governing the issuance of certificates and limited permits*—(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.52-4 (a) (1) under any one of the following conditions:

(1) When, in the judgment of the inspector, they have not been exposed to infestation.

(2) When they have been examined by an inspector and found to be free of infestation.

(3) When they have been treated under the observation of an inspector and in accordance with methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied.

Certificates may be issued by the inspector for the movement of the regulated articles covered by § 301.52-4 (a)

(2) under the conditions stated in subparagraph (3) of this paragraph.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.52-4 (a) to specified destinations for limited handling, utilization, or processing or for treatment.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles, may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in transportation of such articles as may be required by the inspector.

§ 301.52-6 *Assembly of articles for inspection.* Persons intending to move any of the regulated articles under § 301.52-4 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.52-7 *Cancellation of certificates or limited permits.* Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or canceled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the pink bollworm.

§ 301.52-8 *Inspection and disposition.* Any truck, wagon, car, aircraft, boat, or other means of conveyance, or container, which is moving interstate and which an inspector has probable cause to believe carries or contains any pink bollworm or other regulated article the movement of which is prohibited or restricted by the quarantine or regulations in this subpart shall be subject to inspection by the inspector. When regulated articles are found to be moving or to have been moved in violation of the provisions in this subpart, the inspector may seize, destroy, return to the shipper, or otherwise dispose of such articles as he deems necessary to eliminate the danger of spread of the pink bollworm.

§ 301.52-9 *Shipments for scientific purposes.* Live pink bollworms may be removed from any State or Territory into any other State or Territory or the District of Columbia, or from said District into any State or Territory, and other articles subject to the requirements of the regulations in this subpart may be moved from the regulated area, or from the generally infested area to the eradication area, for experimental or other scientific purposes, on such conditions and under such safeguards as may be required by the Director of the Plant Pest Control Division. The container or,

if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Director of the Plant Pest Control Division.

§ 301.52-10 *Nonliability of Department.* The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

This amendment would authorize the Director of the Plant Pest Control Division to designate the regulated area and to divide it into a generally infested area and an eradication area and otherwise would conform the quarantine and regulations more closely to the pattern of other quarantines and regulations under the act. The list of products and articles subject to regulation has been simplified and modified to include specifically cotton waste produced at textile mills and to include generally any products and articles found to present a hazard of spread of the pink bollworm.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 22d day of April 1957.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 57-3397; Filed, Apr. 25, 1957;
8:52 a. m.]

[7 CFR Part 301]

PINK BOLLWORM QUARANTINE

ADMINISTRATIVE INSTRUCTIONS EXEMPTING CERTAIN ARTICLES FROM SPECIFIC REQUIREMENTS

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that the Director of the Plant Pest Control Division, pursuant to the authority to be conferred by a proposed amendment of the Pink Bollworm Quarantine No. 52 (7 CFR 301.52)¹ under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), is considering the issuance of administrative instructions exempting certain articles from the regulations supplemental to said quarantine (7 CFR 301.52) to read as follows:

§ 301.52a *Administrative instructions exempting certain regulated articles from specific requirements.* The Director of the Plant Pest Control Division has found that facts exist as to the pest risk involved in the movement of the following regulated articles making it safe to modify, by making less stringent, the requirements of the regulations supplemental to the pink bollworm quarantine

as follows. The movement of the following articles from or within the regulated area is hereby exempted from the requirements of §§ 301.52-3 (b), 301.52-4 (a) (1), and 301.52-6 of the regulations supplemental to the pink bollworm quarantine:

(a) Compressed bale cotton lint moving by common carrier when such lint has been given standard or equivalent compression.

(b) Baled cotton lint moving from the generally infested area to the eradication area.

(c) Samples of cotton lint and cotton linters of the usual trade size.

(d) Cottonseed cake.

(e) Cottonseed meal.

(f) Kenaf and edible okra produced in the eradication area (Arizona, Arkansas, Louisiana) or in Oklahoma or New Mexico.

(g) Edible okra produced in Texas during the period December 1 to April 30, inclusive.

(h) Edible okra produced in Texas during the period May 1 to November 30, inclusive, for movement to the District of Columbia or to the following States or parts of States for immediate processing or consumption therein when the containers are marked as non-certified Texas okra by a stamp as required by the inspector: Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming, and that part of Virginia, Missouri, Illinois, and Kentucky north of the 38th parallel.

The proposed administrative instructions would exempt the specified articles from the requirements of the cited regulations supplemental to the pink bollworm quarantine.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U. S. C. 161, 162; 7 CFR 301.52)

Done at Washington, D. C., this 22d day of April 1957.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F. R. Doc. 57-3398; Filed, Apr. 25, 1957;
8:52 a. m.]

[7 CFR Part 301]

PINK BOLLWORM QUARANTINE

ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREAS

Notice is hereby given under section 4 of the Administrative Procedure Act (5

U. S. C. 1003) that the Director of the Plant Pest Control Division, contingent upon authority being delegated to him in conformity with § 301.52-2 of the proposed amendment of pink bollworm regulations (7 CFR 301.52-2)¹ under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), is considering issuing the following administrative instructions, to appear in 7 CFR Supp. 301.52-2a, listing counties, parishes, and a part of a county, in the quarantined States, in which infestation of the pink bollworm has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, thereby designating such counties, parishes, and part of a county, as pink bollworm regulated area within the meaning of the provisions in this subpart:

§ 301.52-2a *Administrative instructions designating regulated area under the pink bollworm quarantine and regulations.* (a) Infestations of the pink bollworm have been determined to exist, in the quarantined States, in the respective counties, parishes, and part of a county, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such civil divisions and part thereof because of their proximity to infestation or their inseparability for quarantine purposes from infested localities. Accordingly, such civil divisions and part thereof are hereby designated as the pink bollworm regulated area within the meaning of the provisions in this subpart:

Arizona. Counties of Cochise, Graham, Greenlee, and Santa Cruz, and all of Pima County except that portion lying west of the west line of Range 9 East.

Arkansas. Counties of Calhoun, Clark, Columbia, Conway, Crawford, Dallas, Franklin, Garland, Hempstead, Hot Springs, Howard, Johnson, Lafayette, Little River, Logan, Miller, Montgomery, Nevada, Ouachita, Perry, Pike, Polk, Pope, Scott, Sebastian, Sevier, Union, Washington, and Yell.

Louisiana. Parishes of Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, Claiborne, De Soto, Jefferson Davis, Lincoln, Natchitoches, Red River, Sabine, Union, Vermilion, Vernon, and Webster.

New Mexico. The entire State.

Oklahoma. The entire State.

Texas. The entire State.

(b) *Eradication area.* All regulated area within the States of Arizona, Arkansas and Louisiana is hereby designated as eradication area.

(c) *Generally infested area.* All regulated area within the States of New Mexico, Oklahoma and Texas is hereby designated as generally infested area.

These administrative instructions list the localities that are proposed for regulation under a revision of the pink bollworm notice of quarantine and supplemental regulations now being concurrently considered for issuance. The instructions would add to the regulated area for the first time the county of Washington, in Arkansas, and all presently nonregulated area in New Mexico.

¹ See F. R. Document 57-3397, *supra*.

A light pink bollworm infestation has been found in Washington County, Arkansas. It is proposed to add the remaining counties of New Mexico to the regulated area, since little or no cotton, okra and kenaf are grown in the counties proposed for addition. The enforcement of the regulations in New Mexico will be facilitated by allowing free movement of cotton and cotton products, okra and kenaf throughout the State. It is not anticipated that such an extension would increase the hazard of spread of the pest.

All persons who desire to submit written data, views, or arguments in connection with the matter should file the same with the Director of the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U. S. C. 161, 162; 7 CFR 301.52-2)

Done at Washington, D. C., this 22d day of April 1957.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F. R. Doc. 57-3399; Filed, Apr. 25, 1957;
8:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 11959; FCC 57-353]

FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

NOTICE OF PROPOSED RULE MAKING

Correction

In F. R. Document 57-2881, appearing in the issue for Tuesday, April 16, 1957, at page 2583, make the following change in the table: Under "Existing allocation" and in the column headed "Band (Mc)" the reference to "155.48-161.85" should read "159.48-161.85".

[47 CFR Part 11]

[Docket No. 11991; FC 57-356]

INDUSTRIAL RADIO SERVICES

NOTICE OF PROPOSED RULE MAKING

Correction

In F. R. Document 57-2883, appearing in the issue for Tuesday, April 16, 1957, at page 2593, make the following changes:

1. The bracket should read as set forth above.
2. On page 2600, column 1, preceding the table headed "Frequency Pairs", insert the following paragraph:

(b) In the Manufacturers Radio Service only:

DEPARTMENT OF COMMERCE

Office of the Secretary

STANLEY W. DENNIS

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of November 15, 1956, 21 F. R. 8892.

- A. Deletions: No change.
B. Additions: No change.

This statement is made as of April 16, 1957.

STANLEY W. DENNIS.

APRIL 16, 1957.

[F. R. Doc. 57-3376; Filed, Apr. 25, 1957;
8:47 a. m.]

RALPH F. STARTZ

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of October 25, 1956, 21 F. R. 8197.

- A. Deletions: No change.
B. Additions:
Allegheny-Ludlum Steel Corporation.
Briggs & Stratton.
American-Marietta Corp.
Clark Oil Company.
Rental Property.

This statement made as of April 18, 1957.

RALPH F. STARZ.

APRIL 18, 1957.

[F. R. Doc. 57-3377; Filed, Apr. 25, 1957;
8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

APRIL 15, 1957.

In connection with the issuance of a new and correct patent under the provisions of 43 CFR 104.5, and pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F. R. 2473), the following-described lands have been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 28 S., R. 13 E.,
Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

NOTICES

The areas described total 120 acres of public lands in San Luis Obispo County.

The land consists of steep brushy hills lying at an elevation of approximately 1,600 feet in the foothills of the La Panza Range, approximately 4 miles airline north of Santa Margarita, California. The vegetation consists primarily of chamise with a few scattered oak trees.

The land does not appear to be suitable for agriculture or for cabin sites due to the steepness of the topography and the paucity of water.

No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Subject to any existing valid rights and the requirements of applicable law, the lands described above are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on May 21, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on August 20, 1957, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m. on August 20, 1957, will be considered as simultaneously filed at that hour. Rights under such applications

and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m., on August 20, 1957.

Persons claiming veteran's preference rights under paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Room 1000, California Fruit Building, 4th and J Streets, Sacramento 14, California.

R. R. BEST,
State Supervisor.

[F. R. Doc. 57-3371; Filed, April 25, 1957;
8:46 a. m.]

Geological Survey

[Power Site Classification 440]

LAKE KILLARNEY, IDAHO

POWER SITES

Pursuant to authority vested in me by the act of March 3, 1879 (20 Stat. 394; 43 U. S. C. 31), and by Departmental Order No. 2333 of June 10, 1947 (43 CFR 4.623; 12 F. R. 4025), the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of Sec. 24 of the act of June 10, 1920, as amended by sec. 211 of the act of August 26, 1935 (16 U. S. C. 818):

BOISE MERIDIAN, IDAHO

T. 43 N., R. 2 W.,
Unsurveyed island lying partly in sec. 3 and partly in sec. 10.

The area aggregates approximately three acres.

Dated: April 18, 1957.

THOMAS B. NOLAN,
Director.

[F. R. Doc. 57-3368; Filed, Apr. 25, 1957;
8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 7634 etc.; FCC 57M-393]

ROBERT BURDETTE ET AL.

ORDER SCHEDULING ORAL ARGUMENT

In re applications of Robert Burdette, San Fernando, California, Docket No. 7634, File No. BP-4799; Charles R. Bramlett, Torrance, California, Docket No. 11978, File No. BP-9833; A. A. Crawford, Beverly Hills, California, Docket

No. 11979, File No. BP-10068; KCBQ, Inc. (KCBQ) San Diego, California, Docket No. 11980, File No. BP-10729; Latin-American Broadcasting Corporation, Monterey Park, California, Docket No. 11981, File No. BP-10811; for construction permits.

It is ordered, This 22d day of April 1957, upon request of Charles R. Bramlett, that oral argument on the petition of A. A. Crawford, filed April 15, 1957, for dismissal of his application in the above-entitled proceeding without prejudice, will be held in the Offices of the Commission, Washington, D. C., commencing at 10:00 a. m., Friday, April 26, 1957.

Released: April 22, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3386; Filed, Apr. 25, 1957;
8:49 a. m.]

[Docket No. 11288 etc.; FCC 57M-391]

PONCE DE LEON BROADCASTING CO. OF
PUERTO RICO ET AL.

ORDER SCHEDULING HEARING CONFERENCE

In re applications of Ponce de Leon Broadcasting Co., Inc. of Puerto Rico, Mayaguez, Puerto Rico, Docket No. 11288, File No. BPCT-1906; Sucesion Luis Pirallo-Castellanos, Mayaguez, Puerto Rico, Docket No. 11811, File No. BPCT-2158; Department of Education of Puerto Rico, Mayaguez, Puerto Rico, Docket No. 11812, File No. BPCT-2159; for construction permits for new television stations.

Pursuant to an informal hearing conference in the above-entitled proceeding, which was held in the office of the presiding hearing examiner therein on April 18, 1957;

It is ordered, By the hearing examiner on his own motion, this 19th day of April, 1957, that a formal hearing conference in the said proceeding is scheduled to be held at 10:00 o'clock a. m., on Friday, April 26, 1957, in the offices of this Commission, Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3387; Filed, Apr. 25, 1957;
8:49 a. m.]

[Docket No. 11588 etc.; FCC 57-373]

JOSEPH M. RIPLEY, INC., ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Joseph M. Ripley, Inc., Jacksonville, Florida, Docket No. 11588, File No. BP-9788; Robert Hecksher, Jacksonville, Florida, Docket No. 11777, File No. BP-10255; Dan Richardson, Orange Park, Florida, Docket No. 11999, File No. BP-10697; for construction permits.

At a session of the Federal Communications Commission held at its offices in

Washington, D. C., on the 17th day of April 1957;

The Commission having under consideration the above-captioned applications for construction permits for new standard broadcast stations to operate on 550 kilocycles with a power of 1 kilowatt, daytime only, at Jacksonville, Florida, by Joseph M. Ripley, Inc. and by Robert Hecksher, and at Orange Park, Florida, by Dan Richardson;

It appearing that by an order adopted on July 11, 1956, the Commission designated for hearing in a consolidated proceeding the mutually exclusive applications of Robert M. Ripley, Inc. and Robert Hecksher; and

It further appearing that on July 16, 1956, Dan Richardson filed an application for the same facilities at Jacksonville, Florida, and, because the application was filed within 10 days of the date the applications of Joseph M. Ripley, Inc. and Robert Hecksher were designated for hearing, it was entitled to be consolidated therewith pursuant to § 1.724 (b) of our rules; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the three applicants herein were notified by letter dated September 24, 1956, of the foregoing and that certain deficiencies obtained with respect to the application of Dan Richardson; and

It further appearing that Dan Richardson, on October 23, 1956, filed a timely reply to the Commission's letter of September 24, 1956; that the Civil Aeronautics Administration, in a letter to Dan Richardson dated October 24, 1956, disapproved said applicant's antenna site; that applicant was given an extension of time to November 23, 1956, to find another site and further reply to the Commission's aforementioned letter; that in letters dated December 13 and 24, 1956, the applicant advised the Commission of progress he was making in locating another site; that the applicant had pending an outstanding request, dated November 22, 1956, for additional time to further reply to the Commission's letter; that, on December 26, 1956, Dan Richardson tendered for filing Sections I and V of FCC Form 301 in which he specified a new site and location at Orange Park, Florida, and indicated that it was "contingent" on his pending application; that said amendment was returned to Dan Richardson because it had not been properly tendered as an amendment to his pending application; that he again tendered it with a statement that it was an amendment to said pending application; that it was accepted for filing as an amendment on January 24, 1957; and

It further appearing that pursuant to section 309 (b) of the act, the three applicants herein were notified by letter dated February 14, 1957, of the foregoing amendment, that the applications herein are mutually exclusive; that the antenna system proposed by Dan Richardson may not be satisfactory; and that the Commission was unable to conclude that a grant of any one of the applications would serve the public interest; and

It further appearing that a timely reply to said letter was filed by Dan Richardson; and

It further appearing that on March 1, 1957, Joseph M. Ripley, Inc. and Robert Hecksher filed separate petitions requesting that the application of Dan Richardson be dismissed under § 1.381 of our rules on the ground that he failed to file within thirty days a reply to the Commission's letter of September 24, 1956, and failed to submit information requested in said letter by November 23, 1956, the date to which the Commission had extended the time to reply to its letter of September 24, 1956; and that the application should be dismissed under § 1.724 (b) of our rules because the said Orange Park amendment was, in fact, a new application and was filed more than 10 days after public notice of the Order designating for hearing the applications of Joseph M. Ripley, Inc. and Robert Hecksher and is not entitled to be consolidated therewith; and that, if the application of Dan Richardson is not dismissed, only his Jacksonville proposal, and not the Orange Park proposal, is entitled to consolidation in said proceedings, and since it changes the basis of the hearing from a comparative issue to a section 307 (b) issue under the Communications Act to determine which of the two cities has the greater need for a new service, and since the applicants for Jacksonville are already in hearing and "can't amend" they suffer an inequity; and

It further appearing that in view of the action of the Civil Aeronautics Administration in objecting to Dan Richardson's original site and his diligent efforts to obtain another site, we are of the opinion that there is no merit to the petitioners' contention that said application should be dismissed under § 1.381 of our rules for failure to reply to Commission correspondence; and

It further appearing that on the basis of the information before us, we are unable to determine whether Dan Richardson's amendment specifying location as Orange Park in lieu of Jacksonville, Florida is a major amendment within the meaning of § 1.373 (h) of our rules to require its being considered a new application not entitled to comparative consideration with the applications of Ripley and Hecksher under § 1.724 (b) of our rules (See Broadcast House, Inc.; FCC 54-267); and

It further appearing that Dan Richardson is legally, financially, technically and otherwise qualified to construct and operate his proposed station, but that operation of the station as proposed would result in mutually destructive interference with the proposals by Joseph M. Ripley, Inc. and Robert Hecksher; and

It further appearing that the Commission after consideration of the foregoing is of the opinion that a consolidated hearing on the applications of Dan Richardson, Joseph M. Ripley, Inc., and Robert Hecksher is necessary; and

It further appearing that this order consolidating said applications in a hearing proceeding should supersede our Order of July 11, 1956 designating for

hearing the applications of Joseph M. Ripley, Inc. and Robert Hecksher;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether Dan Richardson's amendment specifying location as Orange Park in lieu of Jacksonville, Florida is a major amendment within the meaning of § 1.373 (h) of our rules to require its being considered a new application not entitled to consolidation in the proceeding on the applications of Joseph M. Ripley, Inc. and Robert Hecksher under § 1.724 (b) of our rules.

2. To determine the areas and populations which would receive primary service from each of the instant proposals, and the availability of other primary service to such areas and populations.

3. To determine whether the installation and operation of the proposals by Joseph M. Ripley, Inc. and Robert Hecksher would be in compliance with the Commission's Technical Standards with particular reference to the efficiency of the antenna systems.

4. To determine whether Orange Park and Jacksonville, Florida are separate communities within the meaning of section 307 (b) of the Communications Act of 1934, as amended; and, if so, whether the granting of a new facility for Jacksonville or for Orange Park would better provide a fair, efficient and equitable distribution of radio service; and if Jacksonville is favored, which of the two Jacksonville proposals would better serve the public interest; or, if Orange Park and Jacksonville are found not to be separate communities within the meaning of section 307 (b), which of the three instant proposals would best serve the public interest in light of the evidence adduced under the foregoing issues and record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of said three applicants to own and operate the station proposed.

(b) The proposal of each of said three applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of said three applications.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

It is further ordered, That this order shall supersede the Commission's order of July 11, 1956, in designating for hearing the applications of Ripley and Hecksher with respect to the hearing issues.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.387 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hear-

ing and present evidence on the issues specified in this order.

It is further ordered, That the above-described petitions by Joseph M. Ripley, Inc. and Robert Hecksher are granted to the extent provided for above and are denied in all other respects.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3388; Filed, Apr. 25, 1957;
8:49 a. m.]

[Docket No. 11704; FCC 57-374]

Mt. Sterling Broadcasting Co.

ORDER DESIGNATING APPLICATION FOR
HEARING ON STATED ISSUES

In re application of Mt. Sterling Broadcasting Company, Mt. Sterling, Kentucky, Docket No. 11704, File No. BP-10301; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 17th day of April 1957;

The Commission having under consideration the above-captioned application of Mt. Sterling Broadcasting Company for a construction permit for a new standard broadcast station at Mt. Sterling, Kentucky to operate on 1150 kilocycles with a power of 500 watts, daytime only; and

It appearing that the applicant is legally, technically, financially and otherwise qualified to construct and operate its proposed station, but that operation of the station as proposed would cause interference to Station WLOC, Munfordville, Kentucky (1150 kc, 1 kw, Day); and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the instant applicant was advised by letter dated March 4, 1957, of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that a timely reply was filed by the applicant; and

It further appearing that the licensee of Station WLOC, in a letter dated April 2, 1957, requested that the instant proposal be designated for hearing on the ground that it would cause interference to Station WLOC; and

It further appearing that, after consideration of the foregoing, we are of the opinion that a hearing on this application is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the instant proposal, and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal would involve objectionable interference with Station WLOC, Munfordville, Kentucky, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant proposal would serve the public interest, convenience and necessity.

It is further ordered, That South Central Kentucky Broadcasting Co., Inc., licensee of Station WLOC, Munfordville, Kentucky, is made a party to the proceeding; and

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.387 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3389; Filed, Apr. 25, 1957;
8:50 a. m.]

[Docket No. 11963; FCC 57M-394]

HOCKING VALLEY BROADCASTING CORP.
(WHOK)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Hocking Valley Broadcasting Corporation (WHOK), Lancaster, Ohio, Docket No. 11963, File No. BP-10730; for construction permit.

The Hearing Examiner having under consideration the above-entitled proceeding;

It is ordered, This 22d day of April 1957, that all parties, or their attorneys, are directed to appear for a pre-hearing conference, pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., April 29, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3390; Filed, Apr. 25, 1957;
8:50 a. m.]

[Docket No. 11976; FCC 57M-395]

SUFFOLK BROADCASTING CORP. (WRIV)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Suffolk Broadcasting Corporation (WRIV), Riverhead, New York, Docket No. 11976, File No. BP-10765; for construction permit.

The Hearing Examiner having under consideration the above-entitled proceeding;

It is ordered, This 22d day of April 1957, that all parties, or their attorneys, are directed to appear for a pre-hearing conference, pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., May 2, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3391; Filed, Apr. 25, 1957;
8:50 a. m.]

[Docket No. 11998; FCC 57-372]

WKST, Inc.

MEMORANDUM OPINION AND ORDER DESIGNATING MATTER FOR ORAL ARGUMENT ON STATED ISSUES

In re application of WKST, Inc. (WKST-TV), New Castle, Pennsylvania, Docket No. 11998, File No. BPCT-2234; for construction permit to change transmitter site, etc.

1. The Commission has before it for consideration (1) a "Protest and Petition for Reconsideration" filed on March 21, 1957, by Community Telecasting Company, permittee of Television Station WXTV, Channel 73, Youngstown, Ohio; (2) a "Protest and Petition for Reconsideration" filed on March 22, 1957, by Jet Broadcasting Company, Inc.; (3) an "Opposition to Protests and Petitions for Reconsideration" filed on March 28, 1957 by WKST, Inc., permittee of WKST-TV, Channel 45, New Castle, Pennsylvania; (4) a "Reply to Opposition to Protests and Petitions for Reconsideration", filed by Jet Broadcasting Company; (5) a "Motion to Strike" filed by WKST, Inc.; and (6) an "Opposition to Motion to Strike" filed by Jet Broadcasting Company. The above protests and petitions for reconsideration were filed pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, and are directed against the Commission's action of February 20, 1957, granting without hearing the above-captioned application. The petitioners also request reconsideration of the Commission's actions of like date dismissing the application filed by Community Telecasting Company for Channel 45 at Youngstown, and refusing to give such applications comparative consideration with the above-captioned application.

2. On October 22, 1956, the Commission issued a Report and Order in Docket No. 11766 amending the Table of Assignments by assigning Channel 45 to Youngstown, Ohio-New Castle, Pennsylvania, effective November 21, 1956. Before such action, Channel 45 had been assigned solely to New Castle. WKST, Inc., was granted a construction permit for Channel 45 on September 4, 1952, and commenced operation on April 15, 1953. On February 2, 1954, it filed an application for license to cover such operation and was placed on program test

authority. On January 14, 1955, WKST suspended operation, and, accordingly, the Commission has withheld action on its license application. On November 16, 1956, WKST-TV filed the above-captioned application for modification of its construction permit to locate its transmitter and antenna in Youngstown, its main studio to remain in New Castle. On November 20, 1956, Community filed its application to modify its construction permit to specify Channel 45 at Youngstown in lieu of Channel 73, and on December 17, 1956, Jet Broadcasting tendered for filing its application for Channel 45 at Youngstown. On February 20, 1957, the Commission granted the above-captioned application of WKST-TV, dismissed Community's application for modification, and returned the application of Jet Broadcasting. At such time the Commission advised Community and Jet fully of the reasons for its action on their respective applications.

3. Community claims standing as a party in interest under section 309 (c) of the Communications Act and as a person aggrieved and whose interests are adversely affected under section 405 of the act, as the permittee of Television Station WXTV, Channel 73, Youngstown. In support of its claim to standing, Community alleges the Commission's action places WKST-TV in competition with it in Youngstown for the first time and that such competition will result in "new, direct economic hardship"; and will make it almost impossible for WXTV to survive. Community also claims standing under section 405 of the act on the basis of the Ashbacker case¹ because its application for modification of construction permit to specify Channel 45 in lieu of Channel 73 was dismissed without being accorded comparative consideration with the WKST-TV application.

4. Although Jet Broadcasting did not in its original petition specify any facts in support of its claim to standing under sections 309 (c) and 405 of the act, such claim is apparently based upon the fact that it tendered its application for a construction permit for Channel 45 at Youngstown while the above-captioned application of WKST-TV was pending. We find no support in the Communications Act of 1934, as amended, in prior Commission decisions, or in Court decisions, for the claim to standing made by Jet Broadcasting based on its having tendered an application for Channel 45 at Youngstown. In view of the fact that Channel 45 was occupied at the time, and therefore, not available for application, the mere tender of an application does not operate to confer standing to protest or request reconsideration of our action on the above-captioned application. Of course, Jet Broadcasting does have standing under section 405 of the act to ask reconsideration of the Commission's action in returning its application for construction permit. Accordingly, its petition will be considered herein only as a petition for reconsideration of that action and is dismissed in all other respects.

¹ Ashbacker Radio Corp. v. F. C. C., 326 U. S. 327.

5. Community, in support of its protest and petition, alleges, in substance, that the grant of the above-captioned application was not in the public interest because WKST-TV had abandoned its operation on Channel 45 in New Castle; that the Commission made no public interest findings; that Community cannot succeed financially on Channel 73 in competition with three low UHF channels; that the instant grant will deprive New Castle of its only television station; that WKST-TV has made it perfectly clear that its operation will not be for the benefit of New Castle; and that there is a serious question as to whether the WKST-TV proposal will put a city grade signal over New Castle. Community also alleges that because WKST-TV suspended operation on Channel 45 in 1955, for financial reasons, a question is raised as to whether its management is competent; and that WKST-TV's actions have indicated a lack of candor. None of the foregoing allegations are supported by factual allegations of any kind. On the basis of the foregoing, Community specifies the following issues:

1. To determine all the facts and circumstances which led WKST-TV to propose a change in transmitter and antenna sites from New Castle to Youngstown, and the particular facts which led to the selection of the specific site in Youngstown;

2. To determine all of the facts and circumstances with respect to WKST-TV's plans to identify itself with Youngstown, as distinguished from New Castle, where its main studio is nominally situated;

3. To determine the facts and circumstances that led to abandonment of operations at New Castle by WKST-TV in January 1955, the alleged financial losses, and the factors that led to such losses;

4. To determine whether there has been a full disclosure with respect to financing the new construction at Youngstown;

5. To determine the areas and populations which would gain or lose service by reason of the change in transmitter and antenna sites by WKST-TV;

6. To determine whether WKST-TV complied with § 3.651 of the rules in its operations at New Castle;

7. To determine whether WKST-TV complied with § 3.667 of the Commission's rules as to turning in its authorization upon discontinuance of operations in January 1955;

8. To determine whether a grant of the WKST-TV application would contravene the provisions of § 3.607 of the Commission's rules respecting channel assignments, section 307 (b) of the Communications Act respecting equitable distribution of facilities, and the Ashbacker doctrine;

9. To determine whether the grant of the WKST-TV application would adversely affect the operations of UHF stations now operating or authorized to operate at Youngstown, or whether the public would be deprived of the service of any such stations by reason of the grant herein;

10. To determine the need of another UHF service at Youngstown at present

and whether such need outweighs the prospect of injury to existing or authorized stations;

11. To determine the program proposals of WKST-TV, and whether they meet the needs of the area;

12. To determine whether the instant grant was made improperly and in violation of the Commission's rules and the Communications Act and the Ashbacker decision by the Supreme Court concerning comparative hearings on mutually exclusive applications;

13. To determine whether, in the light of the facts adduced under the foregoing issues, the public interest would be served by a grant of the WKST-TV application to move to Youngstown.

6. In addition to the foregoing, Community alleges that the Commission erred in dismissing its application for Channel 45, Youngstown; that such application is entitled to comparative consideration with the WKST-TV application under § 1.385 (e) of the Commission's rules and the doctrine of the Ashbacker case, supra, because WKST-TV had abandoned its New Castle operation and the WKST-TV application was, therefore, a new application; and that, in any event, with the assignment of Channel 45 to the hyphenated communities of Youngstown-New Castle, the old assignment to New Castle passed out of existence, and the new assignment was unoccupied and available for application. Community requests that the Commission (1) vacate and set aside its action of February 20, 1957, granting WKST-TV's application; (2) reconsider its dismissal of Community's application and reinstate such application; (3) set both applications for comparative hearing; (4) stay the effective date of the grant of the WKST-TV application; (5) designate the WKST-TV application for hearing on the issues specified by Community; and (6) make Community a party to such hearing.

7. In its petition, Jet Broadcasting alleges, in support of its request for reconsideration, that Channel 45 was not occupied when it tendered its application, because WKST-TV by its failure to continue operation forfeited its construction permit; that WKST-TV's modification application is actually a new application; and that the Commission's refusal to accept Jet's application for filing is, therefore, a denial of its right to a comparative hearing under the doctrine of the Ashbacker case, supra. Jet Broadcasting also argues, like Community, that the assignment of Channel 45 to Youngstown-New Castle created a new assignment for which all qualified applicants are entitled to compete on a comparative basis. Jet Broadcasting requests (1) that the grant of WKST-TV's application be set aside; (2) that any other construction permit for Channel 45, New Castle, held by WKST-TV be set aside; (3) that construction under the above-captioned construction permit be stayed; and (4) that Jet Broadcasting's application be accepted for filing and set for comparative hearing with the applications of WKST-TV and Community.

8. In opposition to the above-described pleadings WKST-TV concedes that Community has standing on the basis of its status as permittee of Channel 73, Youngstown, but argues that Jet has not alleged facts showing it to have standing. WKST-TV alleges, in substance, that the petitioners herein have made only conclusory, speculative, argumentative, inferential and generally phrased statements instead of alleging facts; that Jet has even failed to specify issues; that Community's issues are, for the most part, not supported by factual allegations; and that the petitioners are not entitled to comparative consideration under the Ashbacker case, because their applications were not mutually exclusive with the WKST-TV application within the meaning of that case.

9. Jet filed a reply to the above opposition in which it argues that it has complied with the statutory requirements for standing under both sections 309 (c) and 405, and that it has alleged sufficient facts upon which to frame issues. It also alleges that "on numerous occasions," WKST-TV has flatly declared that it would not resume operation as long as it was designated a New Castle station. In its "Motion to Strike" WKST-TV argues that this allegation is an addition to Jet's allegations in its original petition, and should not be considered by the Commission because the statutory time for amending the protest had passed.

10. In light of the fact that Community is the permittee of a television broadcast station in Youngstown and has alleged that it will be economically injured by the grant complained of, we find that it is a "party in interest" within the meaning of section 309 (c) of the act and a "person aggrieved" within the meaning of section 405 of the act. *F. C. C. v. Sanders Brothers Radio Station*, 309 U. S. 470. We also find that Community has standing to seek reconsideration under section 405 of the act of the Commission's action dismissing its application (BMPCT-3752) for modification of construction permit to specify Channel 45 in lieu of Channel 73. With respect to Jet, we find that it has no standing to protest or request reconsideration of our action granting the above-captioned application because it is not a "party in interest" to such action or a "person aggrieved" thereby for the reason stated in paragraph 4, supra. Jet is, however, entitled to reconsideration under section 405 of the act of our action returning its application for Channel 45.

11. Issues 1, 2, 3, 4, 5, and 11 specified by Community raise questions concerning which the protestant has alleged no facts whatsoever. We find, therefore, that with respect to these issues, Community has not, within the meaning of section 309 (c), specified the facts relied upon with sufficient particularity to warrant the designation of such issues for hearing, and we know of no facts which would justify our reconsideration of these matters. Issues 6 and 7 raise questions concerning compliance with §§ 3.651 and 3.667 of the Commission's rules. These rules relate to discontinuance of operation by television stations

either temporarily or permanently. Inasmuch as the facts concerning the discontinuance of service by WKST-TV are not in dispute, it appears that it would serve no purpose to hold an evidentiary hearing to ascertain such facts. Likewise, issues 8 and 12 raise questions of law, and the facts upon which such issues are based are also not in dispute. Therefore, oral argument will be held on issues 6, 7, 8 and 12 as on demurrer. Issues 9 and 10 specified by Community relate to whether the Youngstown-New Castle market can provide sufficient economic support for four television broadcast stations. The protestant's position is that it will not. In a recent case in which the protestant raised economic issues, we stated that, "We take this opportunity now to disclaim any power to consider the effects of legal competition upon the public service in the field of broadcasting." In re Application of Southeastern Enterprises (WCLE), 22 F. C. C. 605,612. Consequently, we believe that even if Community's economic injury facts were proven, no grounds are presented for setting aside the grant in question. It appears, however, that in view of the provisions of section 309 (c) of the act, Community must be afforded an opportunity for oral argument on these issues. Accordingly, oral argument will be held on issues 9 and 10, as specified by Community, as on demurrer. Inasmuch as issue 13 is a conclusory issue, based on the other issues, it will also be designated for oral argument.

12. A question is also presented as to whether we should stay the effective date of our grant of the above-captioned application. In this connection section 309 (c) of the Communications Act provides that:

*** pending hearing and decision [of cases arising under this section of the statute] the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorizations in question pending the Commission's decision after hearing.

13. New Castle, Pennsylvania has a population of approximately 48,000 (1950 U. S. Census). WKST-TV is presently the only television station located in New Castle. It is reasonable to conclude, without probing further, that a definite and compelling need exists for a first medium of local expression, and that the public interest requires that the grant of the above-captioned application remain in effect to fulfill such need. Accordingly, we affirmatively find that the public interest requires that the authorization in issue remain in effect pending a decision in the hearing provided for below.

14. We now turn to the petitions for reconsideration of our action dismissing Community's modification application and returning Jet's new application for Channel 45 at Youngstown and refusing

to accord such applications comparative consideration with WKST-TV's application. We reject the various arguments advanced by the petitioners and reiterate and reaffirm the statement contained in our letter of February 20, 1957. Therein, we stated as follows: Section 3.607 (a) of the Commission's rules provides that applications may be filed to construct television broadcast stations only on the channels assigned in § 3.606 (b) and only in the communities listed therein. It is clear, however, that the rule refers to channels which are unoccupied, and that where a construction permit has been granted for a particular channel in a listed community, that channel has, for all practical purposes, been deleted from the Table of Assignments, and is not available for application (a) unless the outstanding construction permit is surrendered or revoked, or (b) until the license comes up for renewal. Absent one of these conditions, a permittee or licensee is protected against competing applications for the channel it occupies.

Accordingly, the above petitions for reconsideration must be denied.

15. In view of the foregoing: *It is ordered*, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the Protest and Petition for Reconsideration of Community Telecasting Company is granted to the extent provided for below and is denied in all other respects; that the Protest and Petition for Reconsideration of Jet Broadcasting Company is denied in all respects; and that oral argument will be held before the Commission en banc, commencing at 10:00 a. m. May 20, 1957, to determine whether the matters raised by the following issues, assuming the facts in support of the issues to be true, are grounds for setting aside the grant in question.

1. To determine whether WKST-TV complied with § 3.651 of the rules in its operations at New Castle;

2. To determine whether WKST-TV complied with § 3.667 of the Commission's rules as to turning in its authorization upon discontinuance of operations in January, 1955;

3. To determine whether a grant of the WKST-TV application would contravene the provisions of § 3.607 of the Commission's rules respecting channel assignments, and section 307 (b) of the Communications Act respecting equitable distribution of facilities;

4. To determine whether the grant of the WKST-TV application would adversely affect the operations of UHF stations now operating or authorized to operate at Youngstown, or whether the public would be deprived of the service of any such stations by reason of the grant herein;

5. To determine the need of another UHF service at Youngstown at present, and whether such needs outweighs the prospects of injury to existing or authorized stations;

6. To determine whether the instant grant was made improperly and in violation of the Commission's rules and the Communications Act and the Ashbacker decision by the Supreme Court concern-

ing comparative hearings on mutually exclusive applications;

7. To determine whether, in the light of the facts adduced under the foregoing issues, the public interest would be served by a grant of the WKST application to move to Youngstown.

It is further ordered, That Community Telecasting Company and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein, and that:

(1) The parties intending to participate in the oral argument shall file their appearances not later than May 1, 1957.

(2) The parties to the proceeding shall have until the date of oral argument to file briefs or memoranda of law.

Adopted: April 17, 1957.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3392; Filed, Apr. 25, 1957;
8:50 a. m.]

[Docket No. 12001; FCC 57-376]

DELSEA BROADCASTERS (WDVL)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Mortimer Hendrickson, Vivian Eliza Hendrickson and John Thomas Jones, Jr., d/b as The Delsea Broadcasters (WDVL), Vineland, New Jersey, Docket No. 12001, File No. BP-10402; for construction permit.

1. The Commission has before it for consideration a "Protest" filed on March 25, 1957 by Community Broadcasting Service, Inc., pursuant to section 309 (c) of the Communications Act of 1934, as amended; and an Opposition thereto filed on April 4, 1957 by The Delsea Broadcasters.¹ The pleading by Community Broadcasting Service, Inc. is directed to the Commission's action of February 20, 1957 (Public Notice released on February 21, 1957) in granting without hearing the above-captioned application of The Delsea Broadcasters for a construction permit for a new standard broadcast station (WDVL) at Vineland,

¹ In a Reply filed April 11, 1957, WWBZ moves to strike certain "scandalous" portions of WDVL's Opposition and requests an additional hearing issue as to whether the Hendricksons prematurely transferred control of Station WHAP, Hopewell, Virginia, by delegating to proposed transferee the right of filing a renewal application. It appears, however, the evidence proposed to be adduced pursuant to this issue comes within the scope of Issue 1 (3) as specified in WWBZ's Protest. Moreover, we cannot agree that the statements which WWBZ desires stricken from WDVL's Opposition are "scandalous". Rather, we are of the view that the statements are sufficiently credible to warrant consideration. Accordingly, said WWBZ motion is denied.

² Concurring statement of Commissioners Hyde and Bartley: "We concur in the result except with respect to the reliance placed by the majority on the holding in the Southeastern Enterprises case, Docket No. 11411."

New Jersey, File No. BP-10402. Community Broadcasting Service, Inc. (hereinafter sometimes referred to as WWBZ) is the licensee of Station WWBZ, Vineland, New Jersey.

2. WWBZ requests that the Commission "designate the said application for hearing", "adopt as its own the hearing issues set forth herein and impose upon the applicant the burden of proof and the burden of proceeding with the introduction of evidence", and "postpone the effective date of the grant * * * to the effective date of the Commission's decision after hearing."

3. In a pleading filed on January 8, 1957, WWBZ opposed a grant of this application on the grounds that the applicant was not financially qualified to operate WDWL and that two of the partners in the applicant had misrepresented to the Commission their programming proposals in an application seeking to acquire the control of Station WHAP, Hopewell, Virginia, File No. BTC-1442, and their reason for relinquishing control of the same station, File No. BTC-1735. On February 20, 1957, we considered the WDWL application and WWBZ pleading and concluded that the questions raised in said pleading did not warrant our designating the WDWL application for hearing. Accordingly, we denied the WWBZ pleading and granted the WDWL application. WWBZ was advised of our findings and action in a letter of the same date.

4. WWBZ claims that it is a "party in interest" within the meaning of section 309(c) of the act because, as the only existing station in Vineland, New Jersey, where WDWL proposes to operate, it will suffer economic injury from the competition for advertising revenues.

5. In support of its protest, WWBZ alleges that the past conduct of two of the partners (Mr. and Mrs. Hendrickson) in the applicant during their operation of Station WHAP, Hopewell, Virginia, shows that they lack the necessary character qualifications to be licensees because in their application for control of said station they misrepresented that (a) they intended to make Hopewell their residence, whereas they retained their residence in New Jersey and one of said partners was in Hopewell only two or three times a week and the other partner, approximately once a month; (b) they would be manager and program director of WHAP, whereas one was only part-time manager and the other was not program director; and (c) they would devote certain percentages of time to various categories of programs, whereas they devoted less or no time to some categories and more to others.

6. WWBZ further alleges that in their application to dispose of control of WHAP, said parties misrepresented that the reason therefor was "other business interests", whereas in the instant application they stated that they had no other business interests; that the real reason for selling their interest in WHAP was that the station was a broadcasting and business failure; that one of said partners told the transferee of WHAP that an application for renewal of license of the station had been filed, whereas it had

not been filed; that, in face of the poor programming and technical condition of WHAP, it is doubtful that the Commission would have then granted a renewal application by said partners; and that one of said partners violated a term of the transfer agreement by obtaining a post-dated check for money which would otherwise have been paid to the transferee.

7. WWBZ further alleges that during the operation of WHAP by said partners the technical condition of the station was below Commission standards with respect to excessive distortion, frequency response, noise output, wiring, turntables and transmitter; that they engaged in improper commercial practices of "double billing" and "palming advertising"; that they rendered a disservice to the local high school with poor broadcasts of the football games and by not paying the school \$140 due them from the broadcasts; that they refused to broadcast a speech by the governor; that the record library was not catalogued, and the same records were played many times during the day; that there was no coverage of local news; that local civic groups were disregarded; and that the station was poorly and inadequately staffed and managed.

8. WWBZ specifies two issues, one with twelve subparts, upon which it requests an opportunity to present evidence at a hearing. These issues are hereinafter set forth.

9. In its Opposition, WDWL denies WWBZ's allegations that in previous applications WDWL misrepresented to the Commission its programming proposals and reason for relinquishing control of WHAP; and WDWL claims that these allegations were disposed of by the Commission in its above-referenced letter of February 20, 1957 (paragraph 3, supra). WDWL claims that the two partners in question did intend to reside in Hopewell, Virginia; that one of them did reside within five miles of the city; that the other was subsequently appointed Superintendent of a State hospital in New Jersey; that this appointment effected a change of plans; and that no misrepresentation as to intended residency was involved. WDWL states that the transferee of WHAP advised the transferor that the former would file the application for renewal of license of that station in face of the then pending application for transfer of control.

10. With respect to WWBZ's allegation that a term of the transfer agreement was violated, WDWL states that "It is inconceivable that * * * [WWBZ] did not learn that the transferee executed a full release of any and all claims against [the transferor]"; and that it "appears that the protestant was aware of this, and deliberately concealed the fact from the Commission." WDWL states that "Protestants allege a poor technical operation in reliance upon an unverified letter dated February 8, 1955 from the manager of the transferee"; and that "this letter submitted on behalf of the transferee approximately seven months after the transfer of the station does not support the charge made by [protestant]."

11. WDWL states that "typical of the lengths to which the Protestant has been willing to go in an attempt to conjure up adverse criticism of Delsea is the alleged fact that the Station WHAP did not maintain a catalogue of its records"; and that "this allegation is denied, but even if true is not a consideration which would weigh in the decision of the Commission to grant or deny the instant application."

12. WDWL further states that the \$140 due the high school was paid and that "it appears that [WWBZ] was aware of this fact and deliberately withheld it from the Commission"; that the allegation by WWBZ that WHAP lacked local news coverage and special events and disregarded local civic groups is supported in fact only by the allegation that the licensee refused to carry a speech by the governor; and that WWBZ's allegations with respect to poor operation of WHAP "comes with ill grace for the Protestant, whose license has been the subject of Commission investigation and hearing over an extended period of years because of its record of operation in a manner inconsistent with the public interest."

13. WDWL contends that WWBZ "has relied upon a host of minutiae which individually or in combination, even if established, would not warrant the Commission in setting aside its grant of the subject application"; and that "the Commission could satisfy the statutory requirements by entering a general demurrer to the charges and allegations by [WWBZ] and upon the holding of an oral argument with respect to such matters reaffirm its grant."

14. WDWL further contends that if an evidentiary hearing is held the burden of proceeding with the introduction of evidence and the burden of proof upon all issues should be on WWBZ because its charges are "in part frivolous and in part, scandalous, in an attempt to smear the applicant in order that [WWBZ] may continue to have a local monopoly in the City of Vineland" and do not "constitute a reasonable basis for imposing such a burden on WDWL."

15. WDWL contends that the effective date of the grant in question should not be postponed because WDWL will render an outstanding service to Vineland and the tri-county area of Gloucester, Salem and Cumberland, devoting more than 20 percent of the time to local live programming and 30 percent to sustaining programs; that WDWL will provide a second local outlet and the first competitive outlet in the community; that "it is of particular significance that in the community of Vineland the only existing station is operated by the protestant, pursuant to a Special Temporary Authorization pending the outcome of a renewal proceeding held to determine its qualifications in view of the broadcast of horse racing programs by [WWBZ]."

16. In view of the facts that the protestant is licensee of Station WWBZ, Vineland, New Jersey, where WDWL proposes to operate; that the two stations would, therefore, be in direct competition for advertising revenue; and that WWBZ alleges that it will suffer economic injury

as a result of WDWL's operation, we find that the protestant is a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended, to have standing to file its pleading pursuant thereto. In re T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197; Federal Communications Commission v. Sanders Brothers Radio Station 309 U. S. 470 (9 Pike and Fischer RR 2008); Clarksville Broadcasting Co., 10 Pike and Fischer RR 1274, 1276. We find further that the protestant has specified with particularity, within the meaning of section 309 (c) of the act, facts relied upon to show that the grant was improperly made or otherwise would not be in the public interest to warrant our designating the instant application for hearing.

17. Issue 1, with 12 subparts, raises questions as to whether the three partners herein possess the requisite character and other qualifications to become licensees of a broadcast station. While the protestant relates this issue to all three partners herein, it alleges facts with respect to only two of the partners. Issue 2 is general as to whether the application should be granted. While we are of the opinion that the facts alleged by WWBZ as to some of those issues do not adequately support the inferences and conclusions drawn by WWBZ to show that the grant was improperly made or would otherwise not be in the public interest, we believe that the facts and matters alleged by WWBZ are sufficiently relevant to warrant a conclusion that the protest is not entirely of a frivolous or sham nature. Since the protest is not entirely of a frivolous or sham nature, or stated differently, since there is a not insubstantial "possibility that a hearing [may] reveal merit" in protestant's position, the Commission is designating the application in question for evidentiary hearing on the issues specified by WWBZ. However, we are not adopting these issues, and the burden of proof on each of the issues will be on the protestant. Also, by including these issues we do not determine or imply that, even if the facts with respect thereto are as alleged by WWBZ, the issues are such that they could result in a determination that said grant was improper, contrary to the public interest, and should be set aside.

18. A final question is presented as to whether we should stay the effective date of our grant of the above-captioned application. In this connection, section 309 (c) of the Communications Act provides that:

... pending hearing and decision [of cases arising under this section of the statute] the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in its decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

No. 81—5

19. Vineland, New Jersey has a population of 8,155 and is located in Cumberland County, which has a population of 88,597 (1950 Census figures). WWBZ is the only standard broadcast station presently licensed to serve the City of Vineland. WWBZ now operates on 1360 kilocycles with a power of 1 kilowatt, daytime only. WDWL would provide primary service to approximately 104,601 people.

20. We are of the opinion that when a town is served by only one local transmission facility, it is reasonable to conclude, without probing further, that a definite and vital need exists for a second medium of local expression. The listeners' opportunity to select among locally originated programs; the availability to civic authorities, public service organizations, and advertisers of more than one local radio medium; the stimulus of competition in local radio operations; and the diversification of standard broadcast operation in a given town—all, are among the manifest needs which remain unsatisfied in a one-station community and demonstrate that the public interest requires that the grant for a second local outlet remain in effect to fulfill said needs. In re Donald F. Whitman, 13 Pike and Fischer RR 849; Coos County Broadcasters, 13 Pike and Fischer RR 625; Southern Broadcasting Company, FCC 57-334, and Kaiser Hawaiian Village Radio, Inc., FCC 57-338, both released on April 10, 1957. Accordingly, we affirmatively find that the public interest requires that our grant of WDWL for a second local outlet in Vineland, New Jersey remain in effect pending a decision in the hearing provided for below.

21. Accordingly, it is ordered, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the instant protest is granted to the extent provided for below and is denied in all other respects; and that the above-captioned application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., upon the following issues:

1. To determine whether Mortimer Hendrickson, Vivian Eliza Hendrickson, and John Thomas Jones, Jr., d/b as The Delsea Broadcasters, possess the requisite character and other qualifications to be licensees of the Commission under the provisions of sections 308 and 309 of the Communications Act of 1934, as amended, with particular reference to the following matters raised in the protest filed March 25, 1957 against the grant of the above-styled application:

(a) Did the Hendricksons misrepresent to the Commission that they would reside in Hopewell, Virginia, when they acquired control of Station WHAP?

(b) Did the Hendricksons misrepresent to the Commission that Mortimer Hendrickson would be full-time manager of Station WHAP and that Vivian E. Hendrickson would be full-time program director of Station WHAP? In addition, did the Hendricksons subsequently misrepresent to the Commission that they had been, respectively, full-time resident station manager and program director?

(c) Did the Hendricksons misrepresent to the Commission the programming which would be broadcast by Station WHAP if transfer of control application BTC-1442 were granted by the Commission? If not, were the Hendricksons grossly careless or indifferent with respect to broadcasting programs not in accordance with their said programming proposals?

(d) Did the Hendricksons misrepresent to the Commission in transfer of control application BTC-1735 their reasons for disposing of Station WHAP?

(e) Did Mortimer Hendrickson misrepresent to the transferee of Station WHAP in July 1954 that the renewal application of the Station had been filed, and why was the renewal application not timely filed by the Hendricksons?

(f) Did Mortimer Hendrickson violate the contract for the sale of stock of the Hendricksons (dated May 17, 1954) to Southern Virginia Broadcasting Corporation, attached to transfer of control application BTC-1735, by securing a postdated check from the Pentecostal Holiness Church in payment of an account receivable of WHAP on or about July 14, 1954?

(g) Was the operation of Station WHAP under the ownership and management of the Hendricksons technically inadequate, of poor technical quality, and below the technical standards for standard broadcast station operation required by the Commission?

(h) Did the Hendricksons engage in the commercial practice known as "double billing", and did they broadcast advertising on behalf of a "palmist" or fortuneteller, while owning and operating Station WHAP?

(i) Did Station WHAP under the ownership and management of the Hendricksons disserve the public high school of Hopewell, Virginia, in connection with the broadcasting of certain football games?

(j) Did the Hendricksons operate Station WHAP contrary to the public interest by inefficiently and indifferently broadcasting recorded music without reasonable and adequate care in the selection of such music and by inefficient maintenance of its record library?

(k) Did the Hendricksons operate Station WHAP contrary to the public interest by inefficient and indifferent news coverage, coverage of local special events, disregard for the needs of local civic and public welfare organizations, and by staffing the Station with inefficient, inadequate, and unsupervised personnel?

(l) Did the Hendricksons operate Station WHAP contrary to the public interest by failing to provide proper station management?

2. To determine in the light of the facts adduced in response to the foregoing issues whether the grant of the above-styled application of The Delsea Broadcasters would serve the public interest, convenience, and necessity.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the issues shall be on the protestant;

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are made parties to the proceeding herein and that:

1. The hearing on the above issues is to commence at a time and place and before an Examiner to be specified in a subsequent order; and

2. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

3. The appearances by the parties intending to participate in the above hearing shall be filed not later than April 30, 1957.

Adopted: April 17, 1957.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3393; Filed, Apr. 25, 1957;
8:51 a. m.]

[Docket No. 12002; FCC 57-377]

FERNANDINA BEACH BROADCASTERS (WSIZ)
MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Marshall W. Rowland & Carol C. Rowland, d/b as Fernandina Beach Broadcasters (WSIZ), Douglas, Georgia, Docket No. 12002, File No. BP-10822; for construction permit.

1. The Commission has before it for consideration a "Protest" filed on March 21, 1957, pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, by WDMG, Inc., licensee of Station WDMG, Douglas, Georgia (860kc, 5kw, D; CP-5 kw, DA-N, U) and directed to the Commission's action of February 20, 1957, in granting without hearing the above-captioned application of Marshall W. Rowland & Carol C. Rowland, d/b as Fernandina Beach Broadcasters, for a construction permit for a new standard broadcast station (WSIZ) to operate on 1310 kilocycles with a power of one kilowatt, daytime only, at Douglas, Georgia; and a "Reply to Protest" filed by Fernandina Beach Broadcasters on April 1, 1957.

2. WDMG, Inc. (sometimes hereinafter referred to as WDMG or protestant) claims that it is a "party in interest" within the meaning of that term in section 309 (c) of the act because WDMG, the only existing radio station in Douglas, Georgia, "will obviously suffer economic injury as a result of the Commission's action in granting the [WSIZ] application, since any revenue obtained by the proposed new station will be at the protestant's expense," and because "there is not sufficient advertising to support two radio stations" in Douglas.

3. WDMG by its pleading requests that the action of the Commission in granting the above-captioned application be reconsidered, that the grant be vacated and that the WSIZ application be designated for hearing with protestant named as a party to the proceeding.

The protestant contends that the validity or invalidity of the contentions made in its protest cannot be determined merely on the basis of an oral argument. In support of its protest, WDMG alleges that economic support for more than one station is not available in Douglas, Georgia, and the surrounding area; that the applicant is not financially qualified to construct and operate the proposed station; that, in view of the past history of Station WFBF, Fernandina Beach, Florida, of which the applicant is licensee, the applicant has made representations with respect to the proposed program schedule that it has no intention of following; and that the applicant deliberately made misrepresentations to the Commission concerning its financial qualifications and proposed program service.

4. WDMG alleges that economic support for more than one station is not available in the Douglas area; that the establishment of a second station in Douglas would constitute a serious threat to WDMG's plans for expansion; that Station WDMG now holds a construction permit for nighttime operation with directional antenna and has pending an application to increase power from 5 kilowatts to 10 kilowatts; that WDMG is relying on anticipated revenues to finance the contemplated improvements in station facilities; that the depressed economic conditions in the area, devoted principally to agriculture with some manufacturing carried on by small concerns, with seasonal employment, large unemployed labor reserve, low per capita income and fluctuating population, are such that the authorization of a second radio broadcast station in Douglas would result in a deterioration of the existing and proposed services of WDMG in the area; and that the public interest would suffer because the public would not continue to receive the kind of programs to which they have become accustomed and to which they are entitled.

5. The protestant alleges, in support of the contention that the permittee is not financially qualified to construct and operate the proposed station, that the permittee shows insufficient funds and insufficient sources for additional funds which may be needed; that the permittee's balance sheet is without provisions for contingencies and shows on its face an unstable financial position; that the borrowing of funds would place permittee on an unsound financial basis; that the permittee has underestimated construction and initial operating costs and overestimated the first year's income in view of the limited radio advertising potential in Douglas; that the permittee exaggerated the value of property shown in the balance sheet as compared with the values of the property shown in the permittee's Tangible Property Tax Return for 1956; that "within a few months after WFBF was licensed [permittee is licensee of Station WFBF], the applicant was trying to peddle the station and that during a considerable part of this period only three people constituted the full staff of the station"; that the financial position of Station WFBF is such

that it has been understaffed and has consistently been up for sale and is for sale currently; that the history of WFBF operation evidences the lack of financial ability to construct and successfully operate the proposed station and raises a serious question as to the permittee's bona fides; that the construction of Station WFBF, then the immediate attempt to "peddle" the station for a price, the chief item of value of which could only be the license, discloses a pattern of attempted brokerage in licenses; and that such an attempt made while operating on a "hand-to-mouth" basis is against the public interest, convenience and necessity. The protestant further alleges, upon information and belief, that Station WFBF must be sold to raise sufficient capital to construct and operate the proposed station.

6. With respect to the contention that the permittee made representations to the Commission concerning the proposed program plan which it has no intention of following, the protestant alleges that programs presently broadcast by Station WFBF do not resemble the format proposed in the application for the WFBF construction permit; that WFBF carries announcements of fortune tellers, astrologers and others of like nature contrary to the interests of the Fernandina Beach listeners; that the statement of program policies contained in the above-captioned application are almost word for word the same statement contained in the WFBF application; that the permittee has made the same "paper" showing concerning program plans for Douglas that was made for Fernandina Beach; that the percentages of the various types and classes of programs contained in paragraphs 2 (b) and 4 (b) of Section IV of the protested application are in error and in conflict with the proposed program schedule and that an accurate analysis of the program schedule would result in different percentages; and that the percentages shown in paragraph 4 (c) of the instant application are exactly the same as those shown in paragraph 4 (b) of the WFBF application; and that the permittee, by the submission of the above program information, deliberately made misrepresentations to the Commission. The protestant requests that the above-captioned application be designated for hearing upon seven issues, as hereinafter set forth.

7. In its reply to the protestant's pleading, the grantee claims that the protestant has no standing to protest the application in view of the Commission's decision in re Application of Southeastern Enterprises (WCLE), 22 FCC 605; FCC 57-252; that the protestant makes no claim that the competition resulting from the proposed operation at Douglas will be illegal; that the decision in the WCLE case is dispositive of the alleged economic injury protestant would receive and requires the dismissal of this protest insofar as it is based upon resulting economic injury; that the protestant is guilty of laches in not coming forward with its objections to the proposed operation during the time the application was pending; that the protestant is attempting merely to utilize the Commission's

sion's protest procedures to delay construction of the grantee's facility; that the Commission has found the grantee to be financially qualified to construct and operate the station as proposed, and, therefore, the protestant has no standing to question the financial qualifications of the grantee; that if the Commission believes there is reason to question grantee's financial qualifications, it is ready to submit facts to prove ability to construct and operate the proposed facility; that \$1,300 worth of equipment has been purchased for the proposed operation; that an agreement with Collins Radio Company has been signed covering the purchase of \$9,115 worth of equipment; that the grantee has a letter of credit for \$10,000 from the Saint Marys State Bank, Saint Marys, Georgia, which sum will be used if necessary; that the applicant's Florida Tangible Personal Property Tax Return for 1956 is in substantial agreement with the balance sheet of July 31, 1956, and any differences can be readily explained since the tax return was filed six months prior to the date of the balance sheet; that the grantee categorically denies that "within a few months after WFBF was licensed, the applicant [grantee] was trying to peddle the station and that during a considerable part of this period only three people constituted the full staff of the station;" that the station has been adequately staffed by four full-time employees and three part-time employees; that in order to enable the partners to devote their full time and attention to the proposed Douglas operation, negotiations were commenced in October 1956, for the sale of WFBF; that a contract for the sale of WFBF was signed on March 22, 1957, more than a month after a grant of the instant Douglas application; that an application for assignment of the license of WFBF is now in preparation for filing with the Commission; that the grantee admits that the programs broadcast over WFBF vary somewhat from those proposed at the time of the application for that station; that the programs which may be broadcast over the Douglas facility may be different in some degree from those proposed in the application; that the responsibility of a licensee is to make its programs responsive to the needs of the area served; that WFBF has done much public service broadcasting for civic and charitable organizations; that when operation of the Douglas station is begun, grantee will seek out various governmental, civic, religious and charitable organizations and offer them the station's facilities; that it is possible that not all the public service which radio can render to and for the residents of Douglas and vicinity is being supplied by WDMG; that grantee believes that the program schedule submitted is "fairly typical of the programming they would do in Douglas" and that the over-all policy would be suitable for Douglas; and that the grantee denies having falsely represented any facts to the Commission or made any statement to the Commission with the intent to mislead or deceive.

8. In view of the facts that the protestant is licensee of Station WDMG, Douglas,

Georgia, where Station WSIZ proposes to operate; that the two stations will be in direct competition for advertising revenue; and that WDMG has alleged that it would suffer economic injury as a result of the operation of Station WSIZ, we find the protestant to be a "party in interest" and "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470, 9 Pike and Fischer RR2008; T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197. We find further that with respect to the requested issues, the protestant has specified with particularity, within the meaning of section 309 (c), the facts upon which it relies to show that the Commission grant was improperly made or is not in the public interest.

9. In substance, Issues 1, 2 and 3, as specified by WDMG, relate to whether there are sufficient advertising revenues available in the Douglas, Georgia market to permit two radio stations to remain on the air and to operate in the public interest. WDMG contends that the advertising potential of Douglas is so inadequate that the operation of a second station may cause either or both stations to render inadequate service to the people of Douglas. In a recent case in which a protestant raised economic issues, we stated that "We take this opportunity to disclaim any power to consider the effects of legal competition upon the public service in the field of broadcasting." In re Application of Southeastern Enterprises (WCLE) [supra] at page 612. Consequently, we believe that even if the facts alleged by WDMG relating to economic injury were proven, no grounds are presented for setting aside the grant in question. It appears, however, that in view of the provisions of section 309 (c),¹ WDMG must be afforded an opportunity for oral argument on these issues. Accordingly, oral argument will be held on Issues 1, 2 and 3, as specified by WDMG, as on demurrer.

10. Issues 4, 5 and 6, as specified by the protestant, raise questions with respect to the grantee's programming proposals, its financial qualifications and the accuracy of certain statements in its application. While we are of the opinion that the facts alleged by the protestant with respect to these issues do not adequately support the inferences and conclusions which the protestant draws to show that the grant was improperly made or would otherwise not

be in the public interest, we believe that some of the facts alleged by the protestant are sufficiently relevant to warrant a conclusion that the protest is not of a frivolous or sham nature. Since the protest is not of a frivolous or sham nature, or stated differently, since there is a not insubstantial "possibility that a hearing [may] reveal merit" in protestant's position, the Commission is designating the application in question for evidentiary hearings on Issues 4, 5 and 6, as specified by the protestant. Federal Broadcasting System, Inc., v. FCC, No. 12494, decided February 23, 1956, 12 Pike and Fischer RR 2094; Coos County Broadcasters, 13 Pike and Fischer RR 626, 629. But the Commission is not adopting the issues, and, therefore, the burden of proceeding with the introduction of evidence and the burden of proof on each issue shall be on the protestant.

11. A final question is presented as to whether we should stay the effective date of our grant of the above-captioned application. In this connection section 309 (c) of the Communications Act provides that:

" * * * pending hearing and decision [of cases arising under this section of the statute] the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing."

12. Douglas, Georgia, has a population of 7,428 according to the 1950 U. S. Census and approximately 8,200 according to the protestant. It is located 108 miles northwest of Jacksonville, Florida, in Coffee County, Georgia, which has a population of 23,961 according to the 1950 U. S. Census and approximately 24,400 according to the protestant. WDMG is the only station presently licensed to serve Douglas. WDMG is now operating on 860 kilocycles with a power of 5 kilowatts, daytime only, has an outstanding construction permit for operation on the presently assigned frequency with a power of 5 kilowatts, nighttime directional antenna, unlimited time, and has pending an application to increase power from 5 kilowatts to 10 kilowatts.

13. We are of the opinion that when a town is served by only one local transmission facility, it is reasonable to conclude, without probing further, that a definite and vital need exists for a second medium of local expression. The listeners' opportunity to select among locally originated programs; the availability to civic authorities, public service organizations and advertisers of more than one local radio medium; the stimulus of competition in local radio operations; and the diversification of standard broadcast operation in a given town—all are among the manifest needs which remain unsatisfied in a one-station com-

¹ Section 309 (c) provides, in pertinent part, that: " * * * The Commission shall, within thirty days of the filing of the protest, render a decision making findings as to the sufficiency of the protest in meeting [specified] requirements; and, where it so finds, shall designate the application for hearing on issues relating to all matters specified in the protest as grounds for setting aside the grant, except with respect to such matters as to which the Commission, after affording protestant an opportunity for oral argument, finds, for reasons set forth in the decision, that, even if the facts alleged were to be proven, no grounds for setting aside the grant are presented."

munity and demonstrate that the public interest requires that the grant for a second local outlet remain in effect to fulfill said needs. In re Southern Broadcasting Company (KCLH), FCC 57-334; In re Donald F. Whitman, 13 Pike and Fischer RR625. Accordingly, we affirmatively find that the public interest requires that our grant of a construction permit for Station WSIZ, a second local outlet in Douglas, Georgia, remain in effect pending a decision in the hearing provided for below.

14. Accordingly, it is ordered, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the instant Protest is granted to the extent provided for below and is denied in all other respects; and that oral argument will be held before the Commission, en banc, at a time and place to be specified in a subsequent order, to determine whether the matters raised by the following issues, assuming the facts in support of the three issues to be true, are grounds for setting aside the grant in question:

1. To determine whether the Douglas market area will provide sufficient revenue to the proposed station to enable it to adequately operate in the public interest.

2. To determine whether, because of the lack of advertising potential in the Douglas market, competition between the existing station and the proposed station may force one or both to fail for lack of financial support, with the result that the public of Douglas will be without a local radio outlet.

3. To determine whether the advertising potential of the Douglas market is so inadequate that the operation of a second station may cause either or both stations to render an inadequate service to the people of Douglas.

It is further ordered, That, the parties intending to participate in the oral argument shall file their appearances not later than 10 days prior to the date of said oral argument and shall have until the date of the oral argument to file briefs or memoranda of law.

It is further ordered, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-captioned application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C., on the following issues:

1. To determine whether the applicant's proposed programming is designed to serve the needs of the Douglas area.

2. To determine whether the applicant has made misrepresentations to the Commission concerning the proposed programming of the Douglas area.

3. To determine whether misrepresentations have been made to the Commission concerning the finances of the applicant, and whether, in light of these facts and the unavailability of potential advertising in Douglas, Georgia, the applicant is financially qualified to construct and operate a radio station.

4. To determine whether, in light of the evidence adduced on the foregoing issues, the public interest, convenience or necessity will be served by a grant of

the application of Fernandina Beach Broadcasters.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the above issues shall be on the protestant;

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are made parties to the proceeding herein and that;

1. The evidentiary hearing on the above issues is to commence at a time and place and before an Examiner to be specified in a subsequent order; and

2. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to such exceptions; and

3. The appearances by the parties intending to participate in the evidentiary hearing shall be filed not later than April 30, 1957.

Adopted: April 17, 1957.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION.

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-3394; Filed, Apr. 25, 1957;
8:51 a.m.]

[Docket No. 12003; FCC 57-378]

TRI-STATE RADIO CORP. (WKYV)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Tri-State Radio Corporation (WKYV), Loyall, Kentucky, Docket No. 12003, File No. BP-10836; for construction permit.

1. The Commission has before it for consideration a "Protest And Petition For Other Relief" filed on March 22, 1957 by Radio Harlan, Inc., pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended; and an Opposition thereto filed on April 9, 1957 by Tri-State Radio Corporation.¹ The pleading by Radio Harlan, Inc. is directed to the Commission's action of February 20, 1957 in granting without hearing the application of Tri-State Radio Corporation for a construction permit for a new standard broadcast station (WKYV) at Loyall, Kentucky, File No. BP-10836. Radio Harlan, Inc. (hereinafter some-

¹Concurring statement of Commissioners Hyde and Bartley: "We concur in the result except with respect to the reliance placed by the majority on the holding in the Southeastern Enterprises case, Docket No. 11411."

²On April 11, 1957, WHLN filed a "Motion To Strike [WKYV's] Opposition * * *" because it was filed on April 9 instead of April 8, 1957 (to which date the time had been extended to file said Opposition) and requested Oral Argument on said Motion. WKYV's Opposition was filed with the Commission by 9 a. m. April 9, 1957. WHLN has not shown how it is injured or prejudiced thereby. We believe its Motion is without merit and is hereby denied.

times referred to as WHLN) is the licensee of Station WHLN, Harlan, Kentucky.

2. WHLN requests "reconsideration or rehearing of the action granting the above application"; "that the subject grant be vacated"; that "the effectiveness of the subject action be stayed"; and that "the subject application be set for hearing upon issues designated by the Commission and that [Radio Harlan, Inc.] be made a party to such proceeding."

3. WHLN claims that it is a "party in interest" and "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended, to have standing to file its pleading pursuant thereto, because it is licensee of an existing station in Harlan, Kentucky, which will suffer economic injury from the competitive operation of WKYV in Loyall, Kentucky, which is less than 1 mile from Harlan, Kentucky and is in essentially the same trade center.

4. In support of its protest, WHLN alleges that the 1950 Census and recent publications by the University of Kentucky, U. S. Department of Labor and the Federal Reserve Bank of Cleveland (Ohio) indicate that the Harlan County area is in a state of decline in population and employment; that Loyall consists of about 800 houses and 16 business places, which couldn't support a radio station, and "WKYV must be planning to obtain most of its revenue from Harlan"; that Dr. Wright, a stockholder in WKYV, holds a first mortgage on property occupied by Station WTCW, Whitesburg, Kentucky; that the license of Station WTCW was recently assigned to Folkway Broadcasting Company by KY-VA Broadcasting Corp., the president of which was Kenneth J. Crosthwait, who is now a consultant for Station WTCW, and that this raises a question of "what interest or intentions, if any, there may be for the Crosthwait Group to become connected with the Loyall station because the same group had an application pending for Harlan, which application was recently dismissed"; that the WKYV application shows Jay Barlow as Program Director and James R. Martin as Manager, but Mr. Barlow is running for Sheriff and if elected would not be able to devote sufficient time to the Program Director's job, and that James R. Martin has recently accepted an accounting position in Ohio, in which case he would be unable to actively participate in the station's management; that none of the principals in the applicant has any radio experience or lives in Loyall; that the applicant has made no showing that it has under its control a main studio location in Loyall; that there is a question of whether the applicant intends to provide a local outlet for Loyall; that a "Statement of Program Service * * *" in Section IV of the application and the program schedule exhibit therewith make no reference to "Loyall", which raises a question of whether the programming is in the public interest; that a question obtains as to the accuracy of the estimates with respect to the cost and operation of the

station, since no reliable source for the estimates is quoted; that the applicant indicates it will lease land for the station but has submitted no exhibit showing that it has the land, and a search by protestant fails to disclose that applicant has leased land; that financial qualification of the applicant corporation depends upon the ability of James M. and Hugh Martin to meet their stock subscriptions of \$10,000 each; that the main asset in the balance sheet of Hugh S. Martin is realty conveyed to him by his father, H. L. Martin, and valued at \$15,000; that the main asset in the balance sheet of James R. Martin is realty conveyed to him by his mother, Mrs. Pallie Martin, and valued at \$10,000; that said instruments of conveyance were signed on September 26, 1956, but were not notarized until after the filing of the application; that, according to legal opinion rendered by a Kentucky attorney, the instruments are ineffective to pass a "marketable fee simple title" since the spouse of each grantor did not also sign to pass dower and curtesy rights respectively in the realty; and that, therefore, James M. and Hugh Martin do not have enough money to meet their stock subscriptions, and the applicant corporation is not financially qualified; that the "revenue stamps" and assessed valuation of the Martin realty indicate that its value is considerably less than indicated in the balance sheets; and that all these discrepancies raise a question of whether the applicant has made misrepresentations in its application. WHLN specified 16 issues, hereinafter set forth, upon which it requests an opportunity at a hearing to present evidence.

5. In its Opposition, WKYV contends that, in light of the Commission's decision in *re Southeastern Enterprises*,³ WHLN's issues with respect to legal competition from the operation of WKYV "are inappropriate for inclusion in any protest or other proceeding"; that "Under section 309 (c) of the Communications Act, the Commission may dispose of protests without hearing where it finds that 'even if the facts alleged were to be proven no grounds for setting aside the grant are presented' and that an 'analysis of the contentions made by Protestant shows that they can and should be disposed of as if upon demurrer in accordance with [said] provision'; and that 'each request for evidentiary issues should be denied as so lacking in factual basis as to be sham and frivolous'. In substance, WKYV admits the facts well pleaded by WHLN but denies the inferences which WHLN seeks to draw from the basic facts alleged and states that WHLN's interpretations of law are not conclusive on the Commission. WKYV further contends that WHLN's request for stay of the effective date of the grant should be denied because WKYV would provide a first outlet for Loyall, Kentucky and a second outlet

for Harlan, Kentucky and nearby communities.

6. In view of the facts that the protestant is licensee of Station WHLN, Harlan, Kentucky, which city is within one mile of Loyall, Kentucky, where the grantee proposes to operate Station WKYV; that the two stations would, therefore, be in direct competition for advertising revenue; and that WHLN alleges that it will suffer economic injury as a result of WKYV's operation, we find that the protestant is a "party in interest" and "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended, to have standing to file its pleading pursuant thereto. In *re T. E. Allen and Sons, Inc.*, 9 Pike and Fischer RR 197; Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470 (9 Pike and Fischer RR 2008); Clarksville Broadcasting Co., 10 Pike and Fischer RR 1274, 1276. We find further that the protestant has specified with particularity, within the meaning of section 309 (c) of the act, facts relied upon to show that the grant was improperly made or otherwise would not be in the public interest to warrant our designating the WKYV application for hearing.

7. Issues 1 through 13, as specified by WHLN, raise questions with respect to the financial qualifications of the applicant corporation; the grantee's programming, operating and personnel proposals; and the accuracy of certain statements in the WKYV application. While we are of the opinion that the facts alleged by WHLN with respect to these issues do not adequately support the inferences and conclusions drawn by WHLN to show that the grant was improperly made or would otherwise not be in the public interest, we believe that some of the facts alleged by WHLN are sufficiently relevant to warrant a conclusion that the protest is not of a frivolous or sham nature. Since the protest is not of a frivolous or sham nature, or stated differently since there is a not insubstantial "possibility that a hearing [may] reveal merit" in protestant's position, the Commission is designating the application in question for evidentiary hearing on these issues. Federal Broadcasting System, Inc. v. FCC, 13 Pike and Fischer RR 2094; Coos County Broadcasters, 13 Pike and Fischer RR 626, 629. But the Commission is not adopting the issues, and, therefore, the burden of proceeding with the introduction of evidence and the burden of proof on each issue shall be on the protestant.

8. In substance, Issues 14, 15 and 16 as specified by WHLN, relate to whether the advertising potential of the area in question is sufficient to support two radio stations. In a recent case in which the protestant raised economic issues, we stated that "We take this opportunity now to disclaim any power to consider the effects of legal competition upon the public service in the field of broadcasting." In re application of Southeastern Enterprises (WCLE), FCC 57-252, released on March 22, 1957. Consequently, we believe that even if WHLN's "eco-

nomic injury" facts were proven, no grounds are presented for setting aside the grant in question. It appears, however, that in view of the provisions of section 309 (c) of the act³ WHLN must be afforded an opportunity for oral argument on these issues. Accordingly, oral argument will be held on Issues 14, 15 and 16, as specified by WHLN, as on demurrer.

9. Finally, WHLN requests that the effective date of the WKYV grant be stayed. Loyall, Kentucky, the city in which WKYV proposes to operate, has a population of 1,548 (1950 Census) and is located approximately 1 mile from Harlan, Kentucky, which has a population of 4,786 (1950 Census). Harlan is the county seat of Harlan County, which county has a population of 71,751. There is presently no broadcast station licensed to serve Loyall, Kentucky. WHLN is the only broadcast station licensed to serve Harlan, Kentucky. Station WHLN operates on 1280 kilocycles with a power of 1 kilowatt, daytime only, and has pending an application for a construction permit to change frequency to 1410 kilocycles and increase power to 5 kilowatts.

10. As pointed out in paragraph 9, above, only one station presently provides a local service to the Loyall-Harlan area. In such circumstances, it is reasonable to conclude, without probing further, that a definite and vital need exists for a second medium of local expression. The listeners' opportunity to select among locally originated programs; the availability to civic authorities, public service organizations, and advertisers of more than one local radio medium; the stimulus of competition in local radio operations; and the diversification of standard broadcast operation in a given town—all, are among the manifest needs which remain unsatisfied in a one-station community and demonstrate that the public interest requires that the grant for a second local outlet remain in effect to fulfill said needs. In *re Donald F. Whitman*, 13 Pike and Fischer RR 625. Accordingly, we affirmatively find that the public interest requires that the authorization in issue for the first local station in Loyall and a second local service to the Loyall-Harlan area remain in effect pending a decision in the hearing provided for below.

11. In view of the foregoing: *It is ordered*, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the instant Protest And Petition For Other Relief is GRANTED to the extent provided for below and is DENIED in all other respects; and that oral

³ Section 309 (c) provides, in pertinent part, that: "The Commission shall, within thirty days of the filing of the protest, render a decision making findings as to the sufficiency of the protest in meeting [specified] requirements; and where it so finds, shall designate the application for hearing on issues relating to all matters specified in the protest as grounds for setting aside the grant, except with respect to such matters as to which the Commission, after affording protestant an opportunity for oral argument, finds, for reasons set forth in the decision, that, even if the facts alleged were to be proven, no grounds for setting aside the grant are presented."

³ In this case, FCC 57-252, released on March 22, 1957, the Commission stated that "We take this opportunity now to disclaim any power to consider the effects of legal competition upon the public service in the field of broadcasting."

argument will be held before the Commission, en banc, at a time and place to be specified in a subsequent order, to determine whether the matters raised by the following three issues, assuming the facts in support of the three issues to be true, are grounds for setting aside the grant in question:⁴

1. To determine whether the town of Loyall will provide sufficient revenue to the proposed station to enable it adequately to operate in the public interest.

2. To determine whether, because of the lack of advertising potential in Loyall, competition between the existing station in Harlan and the proposed station may force one or both to fail for lack of financial support, with the result that the public of the area will be without a local radio outlet.

3. To determine whether the advertising potential of the area is so inadequate that the operation of a second station may cause either or both stations to render an inadequate service to the people of the community.

It is further ordered, That, the parties intending to participate in the oral argument shall file their appearances not later than 10 days prior to the date of said oral argument and shall have until the date of oral argument to file briefs or memoranda of law;

It is further ordered, That pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-captioned application is designated for evidentiary hearing at the offices of the Commission in Washington, D. C. on the following issues:

1. To determine whether or not Hugh S. Martin owned the real estate as stated in the application, and the value thereof, on the date of the execution of the application.

2. To determine whether or not James R. Martin owned the real estate as stated in the application, and the value thereof, on the date of the execution of the application.

3. To determine the purpose and intent of Hugh S. Martin and James R. Martin as grantees of the deeds dated September 26, 1956 attached as Exhibits C and D of this protest, and their significance.

4. To determine whether or not Hugh S. Martin and James R. Martin, in the light of the facts adduced under Issues 1 and 2, are financially qualified as represented by them in the application.

5. To determine the basis and the accuracy of the financial estimates stated in section III of the application.

6. To determine the significance of the word "leased" and whether or not the applicant has any property under lease for the transmitter or main studio of the proposed station.

7. To determine the proposals of this applicant with respect to operating personnel and whether or not possibly interested parties may take over the operation of the proposed station.

8. To determine the full extent of Dr. Wright's financial interest in other broadcast licensees and whether or not

such interest entails the entree of any of the Crosthwait Group into radio in Harlan, Kentucky, area.

9. To determine whether or not this applicant is financially qualified to construct and operate the proposed station.

10. To determine the actual location of this applicant's proposed station.

11. To determine whether or not applicant's proposed programs were designed for and will serve the public service needs of Loyall, Kentucky.

12. To determine whether or not the subject applicant has made full and accurate disclosure to the Commission concerning its intentions and proposals with respect to establishing and operating a radio station at Loyall, Kentucky.

13. To determine whether or not this applicant or its principals have misrepresented facts to the Commission as set forth in its application executed as of September 26, 1956. (BP-10836.)

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of these thirteen issues shall be on the protestant;

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are made parties to the proceeding herein and that:

1. The evidentiary hearing on the above issues is to commence at a time and place before an Examiner to be specified in a subsequent order; and

2. The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

3. The appearances by the parties intending to participate in the evidentiary hearing shall be filed not later than April 30, 1957.

Adopted: April 17, 1957.

Released: April 23, 1957.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL]

MARY JANE MORRIS,

Secretary.

[F. R. Doc. 57-3395; Filed, Apr. 25, 1957;
8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-778]

BANGOR AND AROOSTOOK RAILROAD CO.

NOTICE OF APPLICATION TO WITHDRAW FROM
LISTING AND REGISTRATION, AND OF OPPOR-
TUNITY FOR HEARING

APRIL 22, 1957.

In the matter of Bangor and Aroostook Railroad Company, common stock; File No. 1-778.

The above named issuer, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made ap-

* Concurring statement of Commissioners Hyde and Bartley: "We concur in the result except with respect to the reliance placed by the majority on the holding in the South-eastern Enterprises case, Docket No. 11411."

plication to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

There is very little trading on said stock on the Boston Stock Exchange. In 1955 there were no shares of this Company's stock traded on said Exchange and in 1956 trading was limited to 461 shares. The above stock is also listed on the New York Stock Exchange which provides holders of said stock with an adequate medium of exchange. Delisting of said stock will result in economies to this Company.

Upon receipt of a request, on or before May 8, 1957, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-3373; Filed, Apr. 25, 1957
8:47 a. m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 130]

SOUTH CAROLINA

DECLARATION OF DISASTER AREA

Whereas, it has been reported that beginning on or about April 8, 1957, because of the disastrous effects of tornado and tornadic winds, damage resulted to residences and business property located in certain areas in the State of South Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Offices below indicated from

⁴ These issues are Issues 14, 15 and 16 as specified by protestant.

persons or firms whose property situated in the following counties (including any areas adjacent to said counties) suffered damage or other destruction as a result of the catastrophe above referred to:

Counties: Chesterfield, Lancaster, Marlboro, and Union.

Offices: Small Business Administration Regional Office, 900 North Lombardy Street, Richmond 20, Virginia. Small Business Administration Branch Office, Independence Building, Room 1116, 102 West Trade Street, Charlotte, North Carolina.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1957.

Dated: April 11, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 57-3374; Filed, Apr. 25, 1957;
8:47 a. m.]

[Declaration of Disaster Area 131]

NORTH CAROLINA

DECLARATION OF DISASTER AREA

Whereas, it has been reported that beginning on or about April 8, 1957, because of the disastrous effects of tornado and tornadic winds, damage resulted to residences and business property located in certain areas in the State of North Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as

amended, may be received and considered by the Offices below indicated from persons or firms whose property situated in Robeson County (including any areas adjacent to Robeson County) suffered damage or other destruction as a result of the catastrophe above referred to:

Small Business Administration Regional Office, 900 North Lombardy Street, Richmond 20, Virginia.

Small Business Administration Branch Office, Independence Building, Room 1116, 102 West Trade Street, Charlotte, North Carolina.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1957.

Dated: April 11, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 57-3375; Filed, Apr. 25, 1957;
8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[No. 32159]

PAPER AND PAPER ARTICLES, GAINESVILLE
MIDLAND RAILROAD

INVESTIGATION OF RATES AND ROUTINGS

At a general session of the Interstate Commerce Commission held at its office in Washington, D. C., on the 19th day of April A. D. 1957.

The Commission having under consideration the matter of the publication and maintenance of rates and routing by the Southern Railway Company and connecting lines on paper and paper articles over the line of the Gainesville Midland Railroad Company and over restricted routes which exclude that railroad from participating therein; and also the matters in issue in Docket I. & S. No. 6415, Cancellation of Routing, Paper, Gainesville Midland Railroad Company, and the findings, and orders therein, issued March 5, 1956, in 298 I. C. C. 33, and Sep-

tember 13, 1956, which has been reopened for further hearing, and for good cause appearing:

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, on its own motion, into and concerning the reasonableness and lawfulness otherwise, of the rates and routings on paper and paper articles published in Agent C. A. Spaninger's tariff I. C. C. No. 1466, or as the same has been, or may be, amended, or as published in any other tariffs on file with this Commission, from origin points in the State of Georgia to destinations in South Carolina, North Carolina, Virginia, and to Eastern destinations in official territory through the Virginia gateways, insofar as such rates and routings apply over the line of the Gainesville Midland Railroad Company, and insofar also as any rates and routings on the same commodities from and to the same origins and destinations are restricted in any manner so as to exclude the Gainesville Midland Railroad Company as a participating carrier in the rates and routes. This investigation is instituted with a view to making such findings in the premises and prescribing such just, reasonable, and otherwise lawful rates, routes, charges, rules, regulations, and practices as the facts and circumstances may warrant;

It is further ordered, That a copy of this order be served upon the carriers by railroad parties to the schedules, rates, and routes described herein, and that said carriers be, and they are hereby, made respondents in this proceeding; and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission, and that a copy of this order be filed with the Director, Division of the Federal Register.

And it is further ordered, That this proceeding be assigned for hearing at such time and place as may be hereafter designated with I. & S. No. 6415.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 57-3379; Filed, Apr. 25, 1957;
8:48 a. m.]

